

BAXTER CITY COUNCIL AGENDA

Tuesday, February 17, 2015

The regular meeting of the Baxter City Council will be held on Tuesday, February 17, 2015 at 7:00 p.m. at the Baxter City Hall, 13190 Memorywood Dr., Baxter, MN.

- 1. Call Meeting to Order
- 2. Roll Call
- 3. Pledge of Allegiance
- 4. Public Comments

Comments received from the public may be placed on a future meeting agenda for consideration.

5. Consent Agenda

The following items are considered non-controversial by staff and are recommended to be read and passed in one motion. Any council person, staff, citizen, or meeting attendee can request one or more items be pulled from the Consent Agenda and the item will be pulled and addressed immediately after the passage of the Consent Agenda; otherwise, the following items will be passed in one motion:

- A. Approve City Council Minutes from February 3, 2015 (pp. 4 6).
- B. Approve City Council Work Session Minutes from February 3, 2015 (pp. 7 8).
- C. Approve the Payment of Bills and Finance Report (Addendum A and Addendum A-1).
- D. Approve Resolution No. 2015-15 Ordering Preparation of Proposed Assessment for the 2015 Excelsior Road Improvement Project (pg. 9-10)
- E. Approve Resolution No. 2015-16 Ordering the Assessment Hearing for the 2015 Excelsior Road Improvement Project (pg. 11).
- F. Approve Off-sale liquor license for Super One Liquor, LLC for June 1, 2015 through June 30, 2015 (pg. 12).
- G. Approve Tobacco license for Super One Liquor, LLC for June 1, 2015 through June 30, 2015 (pg. 13).

- H. Approve Resolution No. 2015-17 for the Paul Bunyan Trail/City of Baxter Excelsion Road Improvements Cooperative Agreement (pp. 14 23).
- I. Approve Demolition of Storage Building at Oscar Kristofferson Park (pp. 24 28).
- J. Award the Professional Engineering Services Contract for Lift Station No. 3 Re-Route Improvement Project to Bolton & Menk, Inc. in the not to exceed amount of \$63,420.00 (pp. 29 – 44).
- K. Accept Utilities Commission Minutes of February 11, 2015 (pp. 45 50).
 - 1. Approve the WSN Agreement for Professional Engineering and Surveying Services for the Forest Drive Area Stormwater Improvements in the not to exceed amount of \$13,250.00 (pp. 51 59).
- L. Approve Clearing of all Right-of-Way and Easements for the 2015 Isle Drive Extension Project and Authorize Staff to Solicit Quotes for Consideration of Awarding the Contract During the March 3, 2015 Council Meeting (pp. 60 – 64).
- M. Approve Architectural Review Commission Minutes from February 5, 2015 (pp. 65 67).
- N. Authorize the Police Department to start the hiring process of an entry level patrol officer to backfill for upcoming resignation (pg. 68).

6. Pulled Agenda Items

7. Other Business

- A. Architectural Review Commission Actions.
 - Adopt Resolution No. 2015-18 Approving an amendment to the City's Industrial Park Architectural Tier Map for Simonson Lumber property located west of 3855
 Independence Road (pp. 69 - 70).

8. Council Comments

- A. Quinn Nystrom
- B. Steve Barrows
- C. Todd Holman
- D. Mark Cross

9. City Administrator's Report

10. City Attorney's Report

- A. Discussion of Land Acquisition Negotiations. Closed Session under MN Statute 13D.05, Subd. 3(c)(3) to develop an offer for the purchase of real property.
- 11. Adjourn to special meeting on Tuesday, February 24, 2015 at 6:00 p.m.

BAXTER CITY COUNCIL MINUTES February 3, 2015

Acting Mayor Todd Holman, who led in the pledge to the flag, called the regular meeting of the Baxter City Council to order at 7:00 p.m.

MEMBERS PRESENT: Acting Mayor Todd Holman and Council Members Quinn Nystrom and Steve Barrows.

MEMBERS ABSENT: Council Member Mark Cross

STAFF PRESENT: Assistant City Administrator Kelly Steele, Community Development Director Josh Doty, Public Works Director/City Engineer Trevor Walter, Police Chief Jim Exsted, and City Attorney Brad Person.

CONSENT AGENDA

- A. Approve City Council Minutes from January 20, 2015
- B. Approve City Council Work Session Minutes from January 20, 2015
- C. Approve the Payment of Bills and Finance Report
- D. Approve Resolution No. 2015-11 Relating to Parking Restrictions on Inglewood Drive from Excelsior Road to Trunk Highway 210 in the City of Baxter, MN
- G. Approve Resolution No. 2015-12 Relating to Parking Restrictions on Novotny Road from Trunk Highway 371 to Dellwood Drive in the City of Baxter, MN
- H. Approve Resolution No. 2015-13 Relating to Parking Restrictions on Dellwood Drive from Novotny Road to Whispering Woods Lane in the City of Baxter, MN
- I. Approve Agreement Between Minnesota State Colleges and Universities, Central Lakes College, and the City of Baxter for Student Supervised Pre-Internship Training
- J. Approve Long Range Planning Commission Minutes from January 26, 2015
- K. Approve Parks and Trails Commission Minutes from January 26, 2015
- L. Approve the installation of the "Yellow Ribbon" community signs
- M. Direct staff to solicit proposals from qualified engineering firms to provide professional engineering and related services for the 2015 City of Baxter Annual Mill & Overlay and Full Depth Reclamation Projects
- N. Approve Resolution No. 2015-14 Relating to Parking Restrictions on Isle Drive from County State Aid 48 to Glory Road in the City of Baxter, MN

MOTION by Council Member Barrows, seconded by Council Member Nystrom to approve the consent agenda with the exception of agenda item L. Approve the installation of the "Yellow Ribbon" community signs. Motion carries unanimously.

PULLED AGENDA ITEMS

L. Approve the installation of the "Yellow Ribbon" community signs.

Chief Exsted asked to pull the agenda item to further discuss the project. Chief Exsted explained the Blue Ribbon sign request from the Brainerd School District was previously approved to install four signs on each of the City's population signs. Chief Exsted further explained the Beyond a Yellow Ribbon Committee will reimburse the City for any extra costs incurred for increasing the support of the population signs to allow the addition of the Beyond a Yellow Ribbon signs. Public Works Director/City Engineer Walter will work with MNDOT to determine the extra costs.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to approve the installation of the "Yellow Ribbon" community signs. Motion carries unanimously.

COUNCIL COMMENTS

Quinn Nystrom: Council Member Nystrom explained she attended the League of Minnesota Cities newly elected official training. Council Member Nystrom further explained the conference provided a good opportunity to network with other newly elected council members. The League of Minnesota Cities is a good resource.

Steve Barrows: Council Member Barrows explained he attended the League of Minnesota Cities newly elected official training in Cohasset.

Todd Holman: Acting Mayor Holman provided the council with a written report of his meeting attendance for January. Acting Holman explained he attend contract negotiations, District 181 National Blue Ribbon celebration, Long Range Planning Commission meeting, VisitBrainerd meeting, Isle Drive public informational meeting, League of Minnesota Cities annual conference on citizen engagement, and the Brainerd American Legion Post 255 luncheon to honor Commander Mike Helm. Acting Mayor Holman explained the Blue Ribbon award was years in the making and it has taken all levels of staff to achieve the national award. Acting Mayor Holman congratulated the district staff, teachers, and parents. Staff will add the draft Comprehensive Plan to the City's website.

CITY ATTORNEY'S REPORT

Discussion of Land Acquisition Negotiations. Closed Session under MN Statute 13D.05, Subd. 3(c)(3) to develop an offer for the purchase of real property.

Labor Contract Negotiations. Closed Session under MN Statute 13D.03

City Attorney Person asked the Council to enter into a closed session under Minnesota Statute 13D.05, subd. 3(c)(3) to develop an offer for the purchase of real property and to enter a closed session under Minnesota Statute 13D.03 to discuss labor contract negotiations.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to enter into a closed session at 7:15 p.m. Motion carries unanimously.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to return to the open meeting at 8:02 p.m. Motion carries unanimously.

Assistant City Administrator Steele explained the Council discussed offers to purchase property and labor contract negotiations during the closed session. There is no action required to be taken by the Council at this time.

ADJOURNMENT

MOTION by Council Member Barrows, seconded by Council Member Nystrom to adjourn the meeting at 8:01p.m. Motion carries unanimously.

Approved by:	Respectfully submitted,
Todd Holman	Kelly Steele
Acting Mayor	Assistant City Administrator

BAXTER CITY COUNCIL MINUTES Work Session February 3, 2015

Acting Mayor Todd Holman called the City Council Work Session to order at 6:00 p.m.

MEMBERS PRESENT: Acting Mayor Todd Holman and Council Members Quinn Nystrom and Steve Barrows

MEMBERS ABSENT: Council Member Mark Cross

STAFF PRESENT: Assistant City Administrator Kelly Steele, Community Development Director Josh Doty, and Public Works Director/City Engineer Trevor Walter

Discuss Process to Fill Vacant Mayor Position

Assistant City Administrator Steele explained the council passed a resolution during the January 20, 2015 council meeting declaring the mayor seat vacant. In the absence of any subsequent action by the council, the mayor position remains vacant until filled by the council. Minnesota Statute provides the council by majority vote of all its members shall appoint a qualified person to fill the vacancy. The appointed person shall serve until the qualification of a successor at the next general election. As noted in the staff report there are two methods commonly used to fill a vacancy, appointment of a person suggested by the council or the appointment of a person following an application process. The council discussed the preference for the option of conducting a formal interview process and the importance of conducting a transparent procedure that is fair to each applicant. Guidelines should be established so the same questions are asked of each applicant. If a quorum of the council is present, the interviews must be conducted in an open meeting. Council directed staff to publish the vacancy in the Brainerd Dispatch. Resumes and cover letters would be accepted until 4:30 p.m. on Friday, February 20 and interviews would be conducted on Tuesday, February 24.

Discuss 2015 CIP Mill and Overlay Projects

Public Works Director/City Engineer Walter explained the city will be starting an annual mill and overlay program. The council had previously indicated support for a seven-year program. After the selection of an engineering firm, the firm will meet with the council and utilities commission to discuss their recommendations. The engineering firm would then draft a feasibility study. Public Works Director/City Engineer Walter explained Finance Director Vacinek would have to review the figures contained in the feasibility report to make a financial recommendation. Approximately 2/3 of the project costs would be assessed. The city will pay for 50% of the frontage road costs due to only one side being assessable. Any pedestrian improvements to Fairview need to be discussed soon, as Fairview is one of the first projects. The council discussed the history and problems associated with pedestrian improvements along Fairview. Public Works Director/City Engineer Walter explained a segment of Foley is not scheduled for a mill and overlay due to the future Inglewood project. The council asked staff to

maintain the city's website with mill and overlay project information. The consensus of the council was to move forward with the project.

Helsene Property - 10393 Timber Ridge Drive

Community Development Director Doty explained the city was contacted by Mr. Helsene regarding the sale of approximately 80 acres of his land in south west Baxter. Mr. Helsene indicated he would like to provide the city with the first opportunity to purchase his property. The property consists of unique topography for Baxter. The property has frontage on the Mississippi River, Bass Lake, and an unnamed lake. The neighboring parcels include Crow Wing State Park and Mississippi Overlook Park. The draft Comprehensive Plan provides this general area as a possible preservation site. Community Development Director Doty explained he wanted to pass this information on to the council to see if there is any interest. Mr. Helsene has explained the council is welcome to view the property. The council discussed the parcel as a connection piece for improving public access to this area of Baxter for emergency services. A goal of the Parks and Trails Commission is to conserve more of the Mississippi River Shoreland. The Council would like more information from staff regarding how this parcel fits into the city's priorities. Community Development Director Doty explained staff was not aware this parcel would be for sale when updating the Comprehensive Plan. The council consensus was to continue exploring the parcel in relation to transportation improvements, park use, cost, and funding mechanisms.

Schedule Date to Conduct Annual City Administrator Review

Acting Mayor Holman explained the council needs to schedule a date to conduct the annual review of the city administrator. Historically, the city administrator has prepared a document for the council to complete prior to the meeting. Acting Mayor Holman facilitates the review process. The council consensus is to schedule the review for March 18, 2015 at 6:00 p.m. or March 19, 2015 at 6:00 p.m. as an alternate date. Assistant City Administrator Steele will ask City Administrator Heitke which day would work for him.

Acting Mayor Holman asked if council members could get a nametag with their name, title, and the city logo. Acting Mayor Holman explained the council would tour the water treatment plant during the next work session.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to adjourn at 6:49 p.m. Motion carried unanimously.

Approved by:	Respectfully submitted,
Todd Holman	Kelly Steele
Acting Mayor	Assistant City Administrator/Clerk

CITY OF BAXTER, MINNESOTA RESOLUTION NO. 2015-15

A RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT FOR THE 2015 EXCELSIOR ROAD IMPROVEMENT PROJECT

WHEREAS, by a resolution passed by the council on February 17, 2015, the city clerk was directed to prepare a proposed assessment of the cost of improving the roadway, street lighting, pedestrian facilities and water, sanitary sewer, and storm water facilities for Excelsior Road from Cypress Drive to the east corporate limits and including portions of Conservation Drive from Fairview Road to approximately 130 feet north of Excelsior Road, and Cypress Drive adjacent to the Excelsior Road corridor; and provide for trail and utility improvements between Fairview Road and the Paul Bunyan Trail; and

WHEREAS, the clerk has notified the council that such proposed assessment is in the process of being completed and is on file in City Hall for public inspection,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BAXTER, MINNESOTA:

- 1. A hearing shall be held at 6:30 p.m., or thereafter on Thursday, March 12, 2015 in the Baxter City Hall located at 13190 Memorywood Drive, Baxter, MN 56425 to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
- 2. The city clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and the city clerk shall state in the notice the total cost of the improvement. City clerk shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearing.
- 3. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City of Baxter, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. An owner may at any time thereafter, pay to the City of Baxter or Crow Wing County Auditor the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

Adopted by the Baxter City Council this 17th day of February, 2015.

CITY OF BAX	TER, MINNESOTA
Todd Holman	-
Acting Mayor	

ATTEST:

Kelly Steele
Assistant City Administrator/Clerk

CITY OF BAXTER, MINNESOTA RESOLUTION NO. 2015-16

A RESOLUTION ORDERING PREPARATION OF PROPOSED ASSESSMENT FOR THE 2015 EXCELSIOR ROAD IMPROVEMENT PROJECT

WHEREAS, the Consulting City Engineer has been directed to proceed with the improvement of the roadway, street lighting, pedestrian facilities and water, sanitary sewer, and storm water facilities for Excelsior Road from Cypress Drive to the east corporate limits and including portions of Conservation Drive from Fairview Road to approximately 130 feet north of Excelsior Road, and Cypress Drive adjacent to the Excelsior Road corridor; and provide for trail and utility improvements between Fairview Road and the Paul Bunyan Trail and the cost thereof has been determined to be \$xxxx of which the City will pay \$xxxx as its share of the cost.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BAXTER, MINNESOTA:

- 1. The portion of the cost of such improvement to be paid by the city is hereby declared to be \$xxxx and the portion of the cost to be assessed against benefited property owners is declared to be \$xxxx.
- 2. Assessments shall be payable in equal annual installments extending over a period of twelve years for improvements along Excelsior Road and seven years for improvements along Conservation Drive, the first of the installments to be payable on or before the first Monday in January, 2016 and shall bear interest at the rate of five and one-half percent (5.5%) the date of the adoption of the assessment resolution.
- 3. The City Clerk, with the assistance of the Consulting City Engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and the City Clerk shall file a copy of such proposed assessment in City Hall for public inspection.
- 4. The City Clerk shall upon the completion of such proposed assessment, notify the council thereof.
- 5. The City Council declares its official intent to reimburse itself for the costs of the improvement from the proceeds of tax exempt bonds.

Adopted by the Baxter City Council this 17th day of February, 2015.

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	CITY OF BAXTER, MINNESOTA
ATTEST:	Todd Holman Acting Mayor
Kelly Steele Assistant City Administrator/Clerk	

02.17.2015

Department Origination:

Administration

Agenda Section:

Consent

Agenda Item: Approve Off-Sale Liquor License for Super One Liquor, LLC for June 1, 2015

through June 30, 2015

Approval Required: Simple Majority of Vote of the Council

BACKGROUND

In accordance with state statutes and the Baxter City Code, establishments engaging in the offsale of liquor must be licensed by the City. Super One Liquor plans to open a new liquor store on the north side of the existing Super One Foods building. The applicant must remit license fees, evidence of liquor liability insurance, certificate of compliance of Minnesota Workers' Compensation law, complete an acceptable background check, and is current with property taxes. As according to the City Code, the liquor license fee has been prorated for the reminder of the City's licensing period (current period July 1, 2014-June 30, 2015). Super One Liquor will remit a new application for the July 1 renewal.

FINANCIAL IMPLICATIONS

The administration of liquor licensing is offset by the application fees.

STAFF RECOMMENDATIONS

Staff recommends approval of the off-sale liquor license for Super One Liquor, LLC.

COUNCIL ACTION REQUESTED

Motion to approve an off-sale liquor license for Super One Liquor, LLC for June 1, 2015-June 30, 2015.

02.17.2015

Department Origination:	Administration	Agenda Section:	Consent
Agenda Item: Approve Tob June 30, 2015	pacco License for Supe	r One Liquor, LLC for June 1	, 2015 through
Approval Required: Simpl	e Majority of Vote of the	Council	

BACKGROUND

Super One Liquor, LLC has submitted a tobacco license application and a certificate of compliance with Minnesota Workers' Compensation Law. The applicant has successfully passed a background check through the Baxter Police Department and has paid the license fee. The business is eligible for a tobacco license.

FINANCIAL IMPLICATIONS

The application fee offsets the cost of administering the issuance of the tobacco license.

STAFF RECOMMENDATION

Staff recommends Council approve the issuance of a tobacco license to Super One Liquor, LLC.

COUNCIL ACTION REQUESTED

Motion to approve tobacco license for the period of June 1, 2015 through June 30, 2015 to Super One Liquor, LLC.

02.17.2015

Department Origination:

Public Works

Agenda Section:

Consent

Agenda Item: Adopt Resolution No. 2015-17 approving the Paul Bunyan State Trail/City of Baxter Cooperative Agreement between the State of Minnesota and the City of Baxter.

Approval Required: Simple Majority Vote of the Council

BACKGROUND

The 2015 Excelsior Road Improvements project includes storm water management improvements. The storm water management improvements include realigning the existing ditch (that runs parallel to and north of Excelsior Road between Cypress Drive and Broadmoor Drive). The ditch will be relocated further north, away from Excelsior Road to improve traffic safety and facilitate future construction of a roundabout at the Cypress Drive/Excelsior Road intersection. The realigned ditch crosses the Paul Bunyan State Trail corridor (under the trail bridge). This portion of the trail corridor falls outside of the limits of any previously executed cooperative agreements with the State of Minnesota. The proposed cooperative agreement allows the City to construct and maintain the relocated ditch.

FINANCIAL IMPLICATIONS

No financial implication to the City since there are no additional costs other than the construction costs to the City for the Department of Natural Resources Agreement. Construction costs have already been accounted for in the 2015 Excelsior Road Improvements Project.

STAFF RECOMMENDATION

Staff recommends City Council adopt a resolution approving the Paul Bunyan State Trail/City of Baxter Cooperative Agreement between the State of Minnesota and the City of Baxter.

COUNCIL ACTION REQUESTED

MOTION to adopt Resolution No. 2015-17 approving the Paul Bunyan State Trail/City of Baxter Cooperative Agreement between the State of Minnesota and the City of Baxter.

Attached:

Resolution No. 2015-17

Paul Bunyan State Trail/City of Baxter Excelsior Road Improvements

Cooperative Agreement

RESOLUTION NO. 2015-17

RESOLUTION TO ENTER INTO A COOPERATIVE AGREEMENT BETWEEN THE STATE OF MINNESOTA AND THE CITY OF BAXTER TO DESIGN, CONSTRUCT, AND MAINTAIN THE EXCELSIOR ROAD STORM WATER MANAGEMENT SYSTEM WITHIN THE PAUL BUNYAN STATE TRAIL CORRIDOR

WHEREAS, the City is in the process of making improvements to Excelsior Road, including improvements to the storm water management system; and

WHEREAS, the City will design, construct, and maintain the Excelsior Road; and

WHEREAS, the City and State have entered into other Cooperative Agreements related to the Paul Bunyan State Trail in the City of Baxter, Crow Wing County, Minnesota.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAXTER, MINNESOTA, to enter into a cooperative agreement (attached) between the State of Minnesota and the City of Baxter for the design, construction and maintenance of the Excelsior Road storm water management system, including those portions located within the Paul Bunyan State Trail Corridor in the City of Baxter, Crow Wing County, Minnesota.

BE IT FURTHER RESOLVED, the Public Works Director and the City Clerk are hereby authorized and directed to execute and enter into said agreement on behalf of the City of Baxter.

WHEREUPON, said Resolution is hereby declared adopted this 17TH day of February, 2015.

CITY OF BAXTER

Todd Holman	
Acting Mayor	

ATTEST:	
77 W G. 1	
Kelly Steele	
Assistant City Administrator/Clerk	

PAUL BUNYAN STATE TRAIL / CITY OF BAXTER EXCELSIOR ROAD IMPROVEMENTS COOPERATIVE AGREEMENT BETWEEN THE STATE OF MINNESOTA AND THE CITY OF BAXTER

This Agreement, between the State of Minnesota, acting by and through the Commissioner of the Department of Natural Resources, hereinafter referred to as the "State" and the City of Baxter, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the Commissioner of Natural Resources has the authority, duty and responsibility under Minnesota Statutes85.015, sub. 15, to establish, develop, maintain and operate the Paul Bunyan State Trail; and

WHEREAS, the State and the City are authorized under Minnesota Statutes Section 471.59 to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the State owns land described as: Sec. 5 and 8, T133N, R28W, Crow Wing County, as shown on the map which is attached and incorporated into this agreement as **Exhibit A**; and

WHEREAS, the State and City have determined that providing for the improvement of the existing storm water management system along Excelsior Road, which is located in-part within the boundaries of the State owned, Paul Bunyan State Trail corridor, within the City of Baxter as shown on the Plan which is attached and incorporated into this agreement as **Exhibit B** is of high priority; and

WHEREAS, the City shall design, construct and maintain the storm water management system, including those portions located within the Paul Bunyan State Trail corridor, as established hereinafter referred to as the "Storm water Management System"; and

WHEREAS, upon completion, the Storm water Management System shall be the sole responsibility of the City; and

WHEREAS, a resolution or copy of the City council/board meeting minutes authorizing the respective entities to enter into this agreement is/are attached and incorporated into this agreement as **Exhibit** C; and

NOW, THEREFORE, in consideration of the mutual benefit to be derived by the public bodies hereto and for the benefit of the general public, the parties agree as follows:

I. STATE DUTIES AND RESPONSIBILITIES

- a. The State shall permit the City to construct the improvements and enhancements to the existing Storm water management system, within the boundaries of the State Trail r/w as shown in **Exhibit B**.
- b. The State shall be allowed to review and approve the preliminary and final plans for the proposed Storm Water Management System as proposed by the City.
- c. The State shall be permitted to review and approve any alterations to proposed plan for the Storm water Management System or the State Trail Corridor proposed by the City during construction.
- d. The State shall permit the City to review any alterations to the Storm water Management System proposed by the State during the term of this Agreement.

Paul Bunyan State Trail 1 of 4
xter Excelsior Road Storm Water Improvements
tity of Baxter
MnDNR Parks & Trails 14 January 2015

II. CITY'S DUTIES AND RESPONSIBILITIES

- a. The City shall design and construct the Storm water Management System improvements as referenced in <u>Exhibit B.</u>
- b. The City shall permit the State to review and approve the preliminary and final plans for the storm water management improvements as proposed by the City.
- c. The City shall obtain all federal, state and local permits necessary for the construction of the storm water improvements. The City shall provide the State copies of all permits required for the construction and administration of these improvements.
- d. The City shall be solely responsible for the administration, operations and maintenance of the Storm water Management System improvements.
- e. The City shall permit the State to review and approve any alterations to the Storm water Management system proposed by the City during construction.
- f. The City shall permit the State to review and approve any alterations to the Storm water Management system proposed by the City during the term of this Agreement.
- g. Upon termination of the Agreement the City shall restore the State Trail Corridor to a condition consistent with its preconstruction condition and as approved by the State.

III. FUNDING

The State shall provide funding for its responsibilities under Article I (a)(b)(c)(d)(e) above through the standard internal purchasing process including, but not limited to, a separate requisition in which funds will encumbered. The total obligation of the State is limited to the amount of funds legislatively appropriated and administratively allocated to this project.

IV. LIABILITY

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by the law and shall not be responsible for the acts of the other party and the results thereof. The State's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, and other applicable law. The City's liability shall be governed by and limited to the amount set forth in Minnesota Statutes, Sections 466.01-466.15, and other applicable law.

V. TERM

- a. Effective Date: February 15, 2015, or the State obtains all required signatures under Minnesota Statutes Section 16C.05, Subdivision 2, whichever is later.
- b. Expiration Date: February 15, 2040, for a period of twenty five (25) years except as otherwise provided herein or agreed to in writing by both parties. This agreement shall renew at the end of the term for an additional five (5) year period unless a party gives three (3) months written notice to the other party to terminate the agreement. This agreement shall continue to automatically renew as the end of each five (5) year period unless the required notice is given.

VI. AUDIT

Under Minnesota Statutes Section 16C.05, sub. 5, the books, records, documents and accounting procedures and practices of the City relevant to the agreement shall be subject to examination by the Commissioner of Natural Resources, the Legislative Auditor and the State Auditor for a minimum of six years from the end of this agreement.

Paul Bunyan State Trail 2 of 4

exter Excelsior Road Storm Water Improvements

City of Baxter

MnDNR Parks & Trails 14 January 2015

VII. ANTITRUST

The City hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations that arose under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

VIII. CANCELLATION

This Agreement may be cancelled by the State at any time with cause or as necessary as provided in Article III, upon thirty (30) days written notice to the City. This agreement may be cancelled by the City at any time with or without cause with (30) days written notice to the State. This Agreement may also be cancelled by the State if it does not obtain funding from the Minnesota Legislature, or other funding sources, or if funding cannot be continued at a level sufficient to allow for the completion of the activities covered under this agreement. The State will notify the City by written or fax notice. The City will also notify the State by written of fax notice. The State will not be obligated to pay for services provided after the notice is given and the effective date of cancellation. The State will not be assessed any penalty if the agreement is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate the necessary funds. The State shall provide the City notice of lack of funding within a reasonable time of the State's receiving that notice.

IX. GOVERNMENT DATA PRACTICES

The City and the State must comply with the Minnesota Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this agreement. The civil remedies of Minn. Stat. 13.08 apply to the release of the data referred to in this clause by either the City or the State.

X. PUBLICITY AND ENDORSEMENT

Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the City individually or jointly with others, or any subcontractors, with respect to the program and services provided from this agreement.

XI. COMPLETE AGREEMENT

This Agreement, and amendments, constitutes the entire agreement between the parties. Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

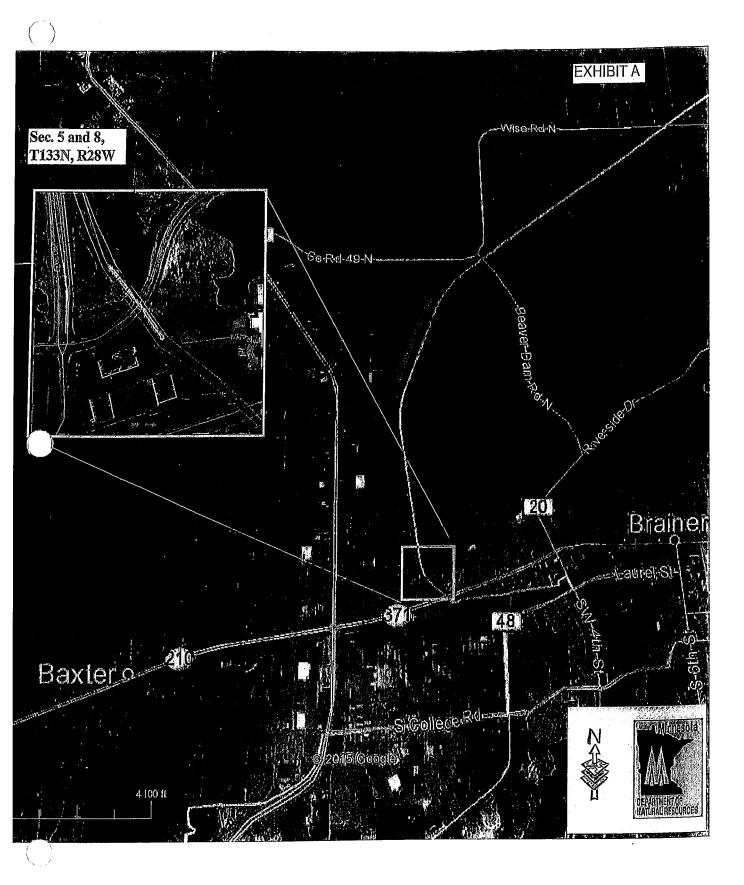
XII. OTHER TERMS AND CONDITIONS

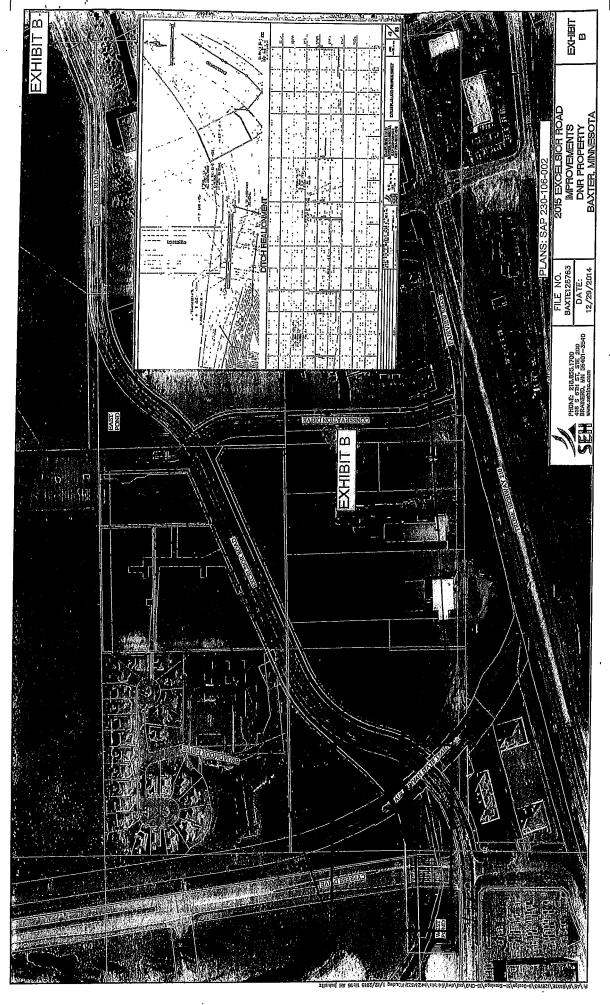
NOTICES: Any notice, demand or communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

The State

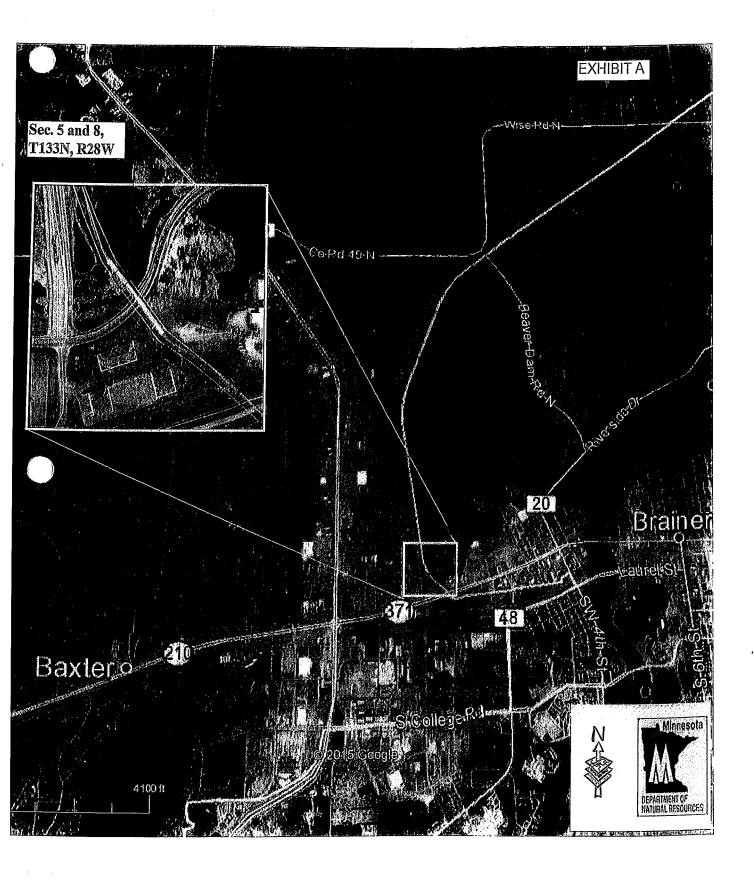
Minnesota Department of Natural Resources Parks and Trails Division Area (2E) Supervisor 1601 Minnesota Drive Brainerd, MN 56401 The City
City of Baxter
Public Works Director
13190 Memorywood Drive
Baxter, MN 56425

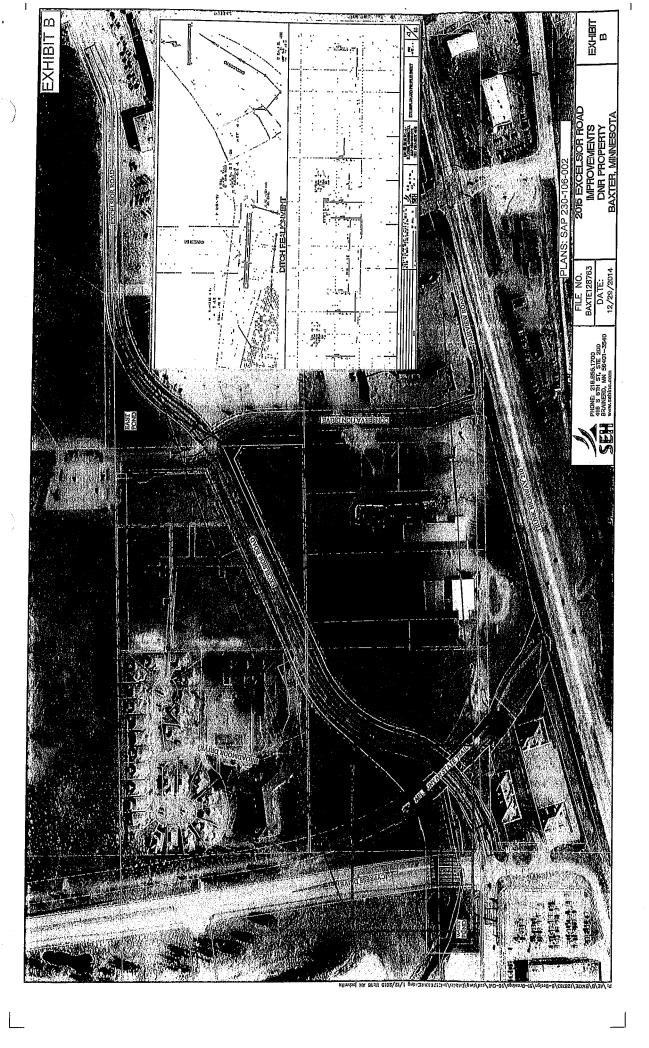
Paul Bunyan State Trail 3 of 4 exter Excelsior Road Storm Water Improvements City of Baxter MnDNR Parks & Trails 14 January 2015





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02.17.2015

Department Origination:Agenda Section:Parks and Trails DepartmentConsent			
Agenda Item: Demolition of Storage Building	at Oscar Kristofferson Park		
Approval Required: Simple Majority Vote of the	e Council		

BACKGROUND

The main storage area of the building at Oscar Kristofferson Park was constructed in the late 1970's with a food concessions addition that was added to the existing structure in 1980's.

In 2007, the Parks and Trails Department relocated to the new Public Works Facility and that created storage space for Baxter's recreation equipment in the former parks maintenance shop and eliminated any need or use for the old storage building at this park.

Minimal to no maintenance has been done on the structure since 2007; however, there are more costly repairs on the horizon which include necessary electrical upgrades, new siding, fascia, caulking and painting in order to keep the building safe and usable. A major deficiency is that the concession stand does not meet any State of Minnesota health code requirements. The concession stand has been inspected by the City Building Official and has been used by the public since the inspection.

There are also public safety and liability issues which includes some type of black mold that would need to be addressed, yellow jacket hornets that continually make nests in the small crevices and rafter areas and it is also home to multiple small rodents in the summer months. Demolition of the building will eliminate the public safety issue.

Demolition of the building will also significantly open up the site lines in the park facility for our city residents and Police Officers to observe the park and hopefully eliminate any unwelcome activities in the park and trail areas at this site.

FINANCIAL IMPLICATIONS

Parks and Trails Staff will supply all demolition labor and equipment.

Hengel Construction	Landfill costs \$8.00 per yard x 20 yards = \$160.00
Hengel Construction	Black dirt costs \$20.36 per yard x 11 yards = \$223.96
Holden Electric	Electric Panel Removal and splicing of power cable = \$720.00

All above costs can be borne by the current 2015 Parks and Trails Budget. Staff will be available to do the work in March after the ice skating rinks have closed for the season.

STAFF RECOMMENDATION

Staff recommends demolishing the storage building in is entirety and not replacing the facility at OK Park. The Baxter Recreation program will have more than enough storage space in the former Parks and Trails garage facility onsite.

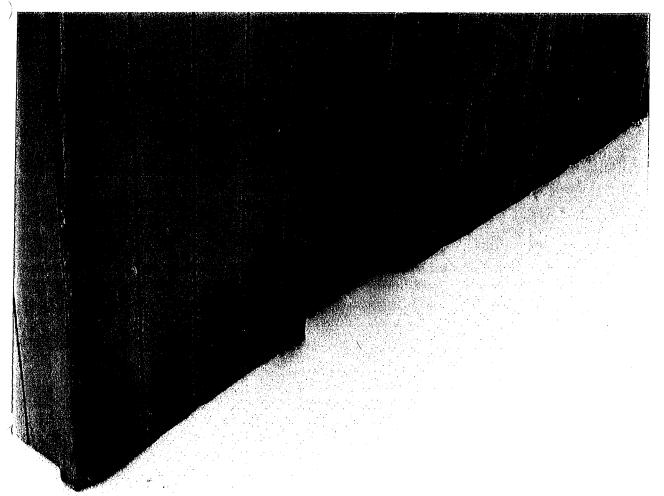
COUNCIL ACTION REQUESTED

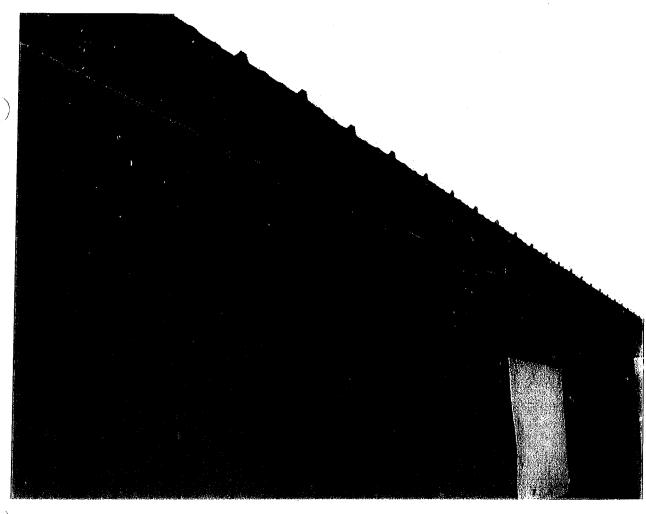
MOTION to direct Parks and Trails Staff to demo the old storage building at OK Park.

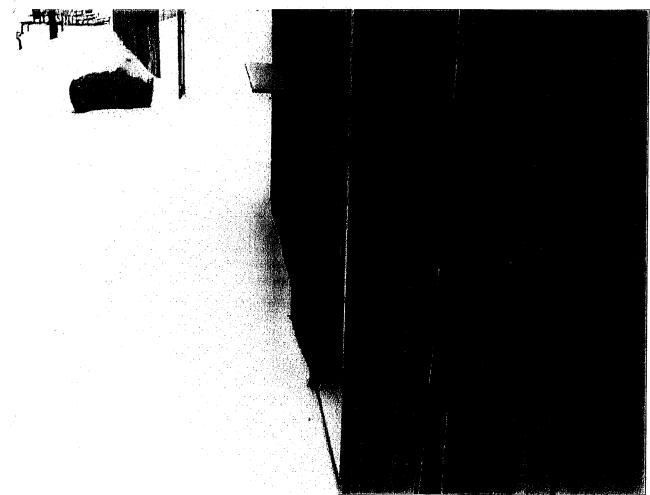
Attached: Pictures of Storage Building

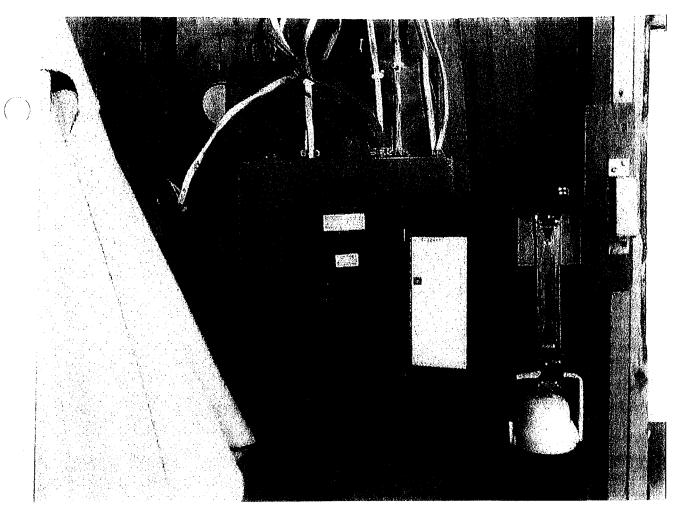












02.17.2015

Department Origination:

Agenda Section:

Public Works

Consent

Agenda Item: Award the Professional Engineering and Related Engineering Services Contract for the Lift Station No. 3 Re-Route Improvement Project.

Approval Required: Simple Majority Vote of the Council

BACKGROUND

City staff submitted a request to solicit engineering proposals from local qualified engineering firms to provide professional engineering and related services for improvements to Lift Station No. 3 located at the intersection of Inglewood Drive and Fairview Road in January 2015.

The following firms submitted the Request for Proposals (RFP) for the 2015 Lift Station No. 3 Re-Route Improvements project before the deadline of Tuesday, February 10, 2015 at 4:30 p.m.:

Bolton & Menk SEH, Inc WSN

All firms were evaluated by the Public Works Director Trevor Walter as per the attached evaluation form. All firms met or exceeded all requirements outlined in the RFP therefore the only remaining factor was the cost of the services to the City. Based on a not to exceed cost, Public Works Director Walter is recommending Bolton & Menk for the 2015 Lift Station No. 3 Re-Route Improvements project.

FINANCIAL IMPLICATIONS

The project has been budgeted for in the 2015 Sanitary Sewer Enterprise Fund. Total project cost including engineer fees is estimated at \$528,000.

STAFF RECOMMENDATION

Staff recommends awarding the professional engineering and related services contract for capital improvements to Lift Station No. 3 Re-Route Improvement Project to Bolton & Menk in the total fee in the not to exceed amount of \$63,420.00 (see attached engineering contract).

COUNCIL ACTION REQUESTED

MOTION to award the professional engineering and related services contract for Lift Station No. 3 Re-Route Improvement Project to Bolton & Menk in the not to exceed amount of \$63,420.00.

Attached:

Evaluation Form

Engineering Contract

LIFT STATION NO. 3 RE-ROUTE IMPROVEMENT PROJECT

Request For Proposals Evaluation Sheet

Request for Proposal Firms			l Firms	
Evaluation Factor	BOLTON & MENK	SEH, INC.	WSN	
Technical Ability				
Technical competence, capabilities and specialized expertise was demonstrated by the responder's expressed project understanding, proposed project approach and methodology, project work plan and project management techniques.	Full project understanding	Full project understanding	Full project understanding	
Pirm has the required background and experience with similar work, including ability and experience in handling project of similar nature.	Over 15 years	Over 15 years	Qver 15 years	
3. The firm has all qualifications and availability of key personnel and other resources to perform the work within the specified project schedule.	Yes	Yes	Yes	
4. Was there any additional pertinent information provided by the consultant.		Questioned schedule because of review and permit times	Unique qualification's over 50 projects in Baxter in the last 1.0 years. Questioned schedule because of review and permit times	
5. Conflict of interest disclosure statement submitted.	Yes	Yes	Yes	
6: Work Plan Included.	Yes	Yes	Yes	
Past Experience				
1. Firm's Experience with Similar Project and Work, Consultant must have had three (3) projects in the last 10 years that are similar.	5 projects in the last 10 years	5 projects in the last 10 years	5 projects in the last 10 years	
Project Team Members must have relevant experience within the last 10 years.	All team members meet requirements	All team members meet requirements	All team members meet requirements	
O Consultant Cost	\$63,420.00	\$125,676.00	\$63,877.50	+

Reviewer Name:

Trever Walter Title: Public Works Director

AGREEMENT FOR PROFESSIONAL SERVICES

LIFT STATION NO. 3 RE-ROUTE IMPROVEMENT

CITY OF BAXTER, MINNESOTA

This Agreement, made this Twelfth day of February 2015 by and between City of Baxter, PO Box 2626 13190 Memorywood Drive, Baxter, Minnesota 56425, hereinafter referred to as CLIENT, and BOLTON & MENK, INC., 7656 Design Road, Suite 200, Baxter, Minnesota, 56425, hereinafter referred to as CONSULTANT.

WITNESS, whereas the CLIENT requires professional services in conjunction with <u>Lift Station No. 3 Re-Route Improvement</u> and whereas the CONSULTANT agrees to furnish the various professional services required by the CLIENT.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

SECTION I - CONSULTANT'S SERVICES

- A. The CONSULTANT agrees to perform the various Basic Services in connection with the proposed project as described in Exhibit I, CONSULTANT COST and Exhibit II, DETAILED WORK PLAN, including preparation of a project Storm Water Pollution Prevention Plan as required by MPCA. Electronic versions of spreadsheet data, equipment evaluation data, and resulting data generated during the project shall be provided to the CLIENT on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind as described in Paragraph IV.F.
- B. Upon mutual agreement of the parties hereto, Additional Services may be authorized as described in Exhibit I or as described in Paragraph IV.B.

SECTION II - THE CLIENT'S RESPONSIBILITIES

- A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section III of this Agreement.
- B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include but shall not be limited boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, and zoning limitations. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.
- C. The CLIENT will guarantee access to and make all provisions for entry upon both public and private portions of the project and pertinent adjoining properties.
- D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.

- E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.
- F. The CLIENT shall provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for completion of the consultant services described in this agreement.
- G. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the project.

SECTION III - COMPENSATION FOR SERVICES

A. FEES.

1. The CLIENT will compensate the CONSULTANT in accordance with the following schedule of fees for the time spent in performance of Agreement services.

Schedule of Fees

Classification	Hourly Rates
Project Manager Environmental Engineer Project Engineer Design Engineer Licensed Land Surveyor Land Surveyor Surveyor Resident Project Representative Clerical	\$145/Hour \$175/Hour \$105/Hour \$ 90/Hour \$135/Hour \$ 85/Hour \$ 110/Hour \$ 55/Hour
Geotechnical Subconsultant Permit Application Fees (BNSF/MPCA)	Reimbursable Expenses \$6,000 \$1,060

- 2. Total cost for the services itemized under Section I.A (Basic Fee) shall not exceed \$63,420.
- 3. Additional services as outlined in Section I.B will vary depending upon project conditions and will be billed on an hourly basis at the rate described in Section III.A.1.
- B. The payment to the CONSULTANT will be made by the CLIENT upon billing at intervals not more often than monthly at the herein rates.

SECTION IV - GENERAL

A. STANDARD OF CARE

Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession currently practicing under similar conditions. No warranty, express or implied, is made.

B. CHANGE IN PROJECT SCOPE

In the event the CLIENT changes or is required to change the scope of the project from that described in Section I and/or the applicable addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the applicable hourly rates. The CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such additional services. The CLIENT may request an estimate of additional cost from the CONSULTANT, and upon receipt of the request, the CONSULTANT shall furnish such, prior to authorization of the changed scope of work.

C. LIMITATION OF LIABILITY

CONSULTANT shall indemnify, defend, and hold harmless CLIENT and its officials, agents and employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CONSULTANT'S employees, agents, or subconsultants. In no event shall CONSULTANT be liable to CLIENT for consequential, incidental, indirect, special, or punitive damages.

CLIENT shall indemnify, defend, and hold harmless CONSULTANT and its employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CLIENT'S employees, agents, or consultants. In no event shall CLIENT be liable to CONSULTANT for consequential, incidental, indirect, special, or punitive damages.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services provided hereunder. The CLIENT agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of the paragraph.

D. INSURANCE

The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage.

The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, general liability insurance coverage insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities (including automobile use). The liability insurance policy shall provide coverage for each occurrence in the minimum amount of \$1,000,000.

During the period of plan design of the project, the CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from an error, omission or negligent act in the performance of professional services required by this agreement, providing that such coverage is reasonably available at commercially affordable premiums. For purposes of this agreement, "reasonably available" and "commercially affordable" shall mean that more than half of the design professionals practicing in this state in CONSULTANT'S discipline are able to obtain coverage. The professional liability insurance policy shall provide coverage for each occurrence in the amount of \$1,000,000 and annual aggregate of \$1,000,000 on a claims-made basis.

Upon request of CLIENT, CONSULTANT shall provide CLIENT with certificates of insurance, showing evidence of required coverages.

E. OPINIONS OR ESTIMATES OF CONSTRUCTION COST

Where provided by the CONSULTANT as part of Exhibit I or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CLIENT and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.

F. USE OF ELECTRONIC/DIGITAL DATA

Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable by this AGREEMENT or except as otherwise explicitly provided in this AGREEMENT, all electronic/digital data developed by the CONSULTANT as part of the PROJECT is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the CLIENT is advised and acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees). Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this AGREEMENT, unless such third party use and adaptation or distribution is explicitly authorized by this AGREEMENT.

G. REUSE OF DOCUMENTS

Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the Project and CONSULTANT shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall acquire an ownership interest in all identified deliverables, including Plans and Specifications, for any reasonable use relative to the Project and the general operations of the CLIENT. CLIENT may make and disseminate copies for information and reference in connection with the use and maintenance of the Project by the CLIENT. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project and any reuse other than that specifically intended by this AGREEMENT will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT.

H. CONFIDENTIALITY

CONSULTANT agrees to keep confidential and not to disclose to any person or entity, other than CONSULTANT'S employees and subconsultants any information obtained from CLIENT not previously in the public domain or not otherwise previously known to or generated by CONSULTANT. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of CONSULTANT; or is fumished to CONSULTANT by a third party who is under no obligation to keep such information confidential; or is information for which the CONSULTANT is required to provide by law or authority with proper jurisdiction; or is information upon which the CONSULTANT must rely for defense of any claim or legal action.

I. PERIOD OF AGREEMENT

This Agreement will remain in effect for the duration of the project, after which time the Agreement may be extended upon mutual agreement of both parties.

J. PAYMENTS

If CLIENT fails to make any payment due CONSULTANT for services and expenses within thirty days after date of the CONSULTANT'S invoice, a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, will be charged on any unpaid balance. In addition after giving seven days' written notice to CLIENT, CONSULTANT may, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to the CLIENT, suspend services and withhold project deliverables due under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

K. TERMINATION

This Agreement may be terminated by either party for any reason or for convenience by either party upon seven (7) days written notice.

In the event of termination, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Agreement.

L. CONTINGENT FEE

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Agreement.

M. NON-DISCRIMINATION

The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

The CONSULTANT is an Equal Opportunity Employer and it is the policy of the CONSULTANT that all employees, persons seeking employment, subcontractors, subconsultants and vendors are treated without regard to their race, religion, sex, color, national origin, disability, age, sexual orientation, marital status, public assistance status or any other characteristic protected by federal, state or local law.

N. CONTROLLING LAW

This Agreement is to be governed by the law of the State of Minnesota.

O. DISPUTE RESOLUTION

CLIENT and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall then be submitted to mediation using a neutral from the Minnesota District Court Rule 114 Roster, or if mutually agreed at time of dispute submittal, a neutral from the American Arbitration Association Construction Industry roster. If mediation is unsuccessful in resolving the dispute, then either party may seek to have the dispute resolved by bringing an action in a court of competent jurisdiction.

P. SURVIVAL

All obligations, representations and provisions made in or given in Section IV of this Agreement will survive the completion of all services of the CONSULTANT under this Agreement or the termination of this Agreement for any reason.

Q. SEVERABILITY

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and CONSULTANT, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

SECTION V - SIGNATURES

THIS INSTRUMENT embodies the whole agreement of the parties, there being no promises, terms, conditions or obligation referring to the subject matter other than contained herein. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf.

CLIENT: City of Baxter	CONSULTANT: Bolton & Menk, Inc.					
	thep	M				
	OFFICE	MANAGER				
CLIENT: City of Baxter						

Exhibit I Consultant Cost

The following details Bolton & Menk, Inc.'s not-to-exceed cost for the services detailed within this proposal.

:	Fotal Cost	\$15,375.00	\$775.00	\$2,050.00	\$13,145.00	\$1,920.00	\$3,915.00	\$6,600.00	\$8,860.00	\$3.720.00	15.15	:			\$56,360.00	V (\$6,000.00	\$1,060.00	\$63,420.00
	Total To Hours	150 \$	7	14	133 \$	20	37	89	86	37	24	564			,			_	S
	Clerical	0	0	0	∞	4	0	0	0	0		12	\$55.00	\$660.00					
	Във	.0.	0	. 0	0	0	0	36	64	0		100	\$85.00	\$8,500.00					
VC.	Surveyor	7.5	0	0	0	0	30	0	0	15		120	\$110.00	\$13,200.00					
BOLTON & MENK INC.	Land Surveyor	. 55	0	0	0	0	9	0	0	18		79	\$85.00	\$6,715.00					
BOLTO	Licensed Land Surveyor	5	0	0.	0	. 0	0	0	0	4		6	\$135.00	\$1,215.00					
	Design Engineer	0	0	4	89	4	0	4	10	0		90	\$90.00	\$8,100.00					
	Project rearinger	. 10	9	0	42	.01	1	22	24	0		115	\$105.00	\$12,075.00					
	Environmenta Engineer	0	0	80	0	0	0	0	0	0		8	\$175.00	\$1,400.00					
	Project Manager	5	1	2	15	2	0	9	0	0		31	\$145.00	\$4,495.00					
CLIENT: City of Baxter PROJECT: Lift Station No. 3 Re-Route Improvement Project	WORK TASK DESCRIPTION	Preliminary Details and Survey	Soils Investigation	Control Panel and Pumps	Design	Advertising, Bidding, & Award	Construction Staking	Project Management	Construction Services	Post Construction Services		TOTAL HOURS	HOURLY RATE		TOTAL LABOR COSTS		Georechnical Subconsultant Costs	Permit Application Fees (BNSF = \$750, MPCA = \$310)	TOTAL FEE
CLIENT: PROJECT:	TASK NO.	н	2	8	4	۲S	9	7	8	6									

Lift Station No. 3 Re-Route Improvement Project | City of Baxter, Minnesota



Exhibit II

Detailed Work Plan

We have developed the following work plan to address the opportunities and challenges this project presents. The City of Baxter can be assured that the Bolton & Menk Team will provide outstanding technical deliverables, exceptional leadership in public and stakeholder involvement, and superior project management in a timely and cost effective manner. Our detailed work plan addresses all elements of the Request for Proposal. A summary of our approach is outlined in the following task descriptions.

Task 1: Preliminary Details and Survey

Subtask 1.1: Field Survey of Existing Conditions

Objective: The creation of a base map identifying pertinent above and below ground existing features in electronic format.

Description: Gather pertinent field information including topographic features, existing public and private utilities, property corner locations, railway improvements, and right-of-way. Gopher-One-Call locate requests and information gathering will begin immediately upon project award.

Deliverables: Electronic base map for project area.

Completion Date: March 6, 2015

Subtask 1.2: Acquire Utility Easements and Permits

Objective: Obtain utility permits and easements necessary for project completion.

Description: Bolton & Menk will work diligently to coordinate and acquire necessary utility permits and easements for completion of the project to meet the City's schedule. We anticipate that through early collaboration and continued diligence that we will be able to secure required permits and easements in a timely manner.

Deliverables: Preliminary sketches, drawings and legal descriptions, utility permits, and easements associated with MnDOT and BNSF utility crossings.

Completion Date: April 2015

Task 2: Soils Investigation

Objective: Identify project soil properties.

Description: We intend to contract with Braun Intertec to perform at a minimum the standard penetration borings as described in the Request for Proposal. Our services will include 4 penetration borings to a depth of 20 feet at proposed forcemain crossing areas.

Deliverables: Summary report of soils investigation with recommendations regarding forcemain installation, utility trench excavation, bedding, backfill, and dewatering, if anticipated.

Completion Date: March 13, 2015

Task 3: Control Panel and Pumps

Subtask 3.1: Lift Station Evaluation

Objective: Evaluate existing pumping equipment and control plan to meet new conditions and assist the City with coordinating modifications.

Description: Engineering staff will evaluate the existing pumping equipment and control panels to determine their adequacy in meeting anticipated flow conditions resulting from forcemain re-routing. The work will include development of system headloss curves and assessment of pumping rate, storage capacity, and anticipated pump operation cycling to assess existing equipment performance and identify recommended modifications/changes.

Our staff will assist the City with recommended changes, if necessary, by working directly with Quality Flow as stated in the Request for Proposal.

Deliverables: Evaluation results, recommendations, and equipment change/modification outlines.

Completion Date: March 2015

Task 4: Design

Subtask 4.1: Construction Plan Preparation

Objective: Preparation of plans to be used for bidding the project.

Description: Preparation of draft and final construction plans meeting the City of Baxter requirements for re-routing of Lift Station No. 3 forcemain and specification of equipment changes/modification, if required. The plans will include all information outlined in the Request for Proposal. We will be in constant contact with City of Baxter staff throughout the design phase and available in a moment's notice for impromptu face-to-face meetings. We will attend Baxter Public Utility Commission and City Council meetings as outlined in the Request for Proposal.

Deliverables: Construction plan set approved by Baxter City staff, Baxter Public Utility Commission, and Baxter City Council. Prepare and submit application and fees for sanitary sewer extension and general stormwater permit to MPCA.

Completion Date: April 2015

Subtask 4.2: Specifications and Contract Documents

Objective: Prepare Specifications and Contract Documents.

Description: Bolton & Menk staff will prepare the project manual outlining the specifications and contracting requirements for the project.

Deliverables: Project manual approved by Baxter City staff, Baxter Utility Commission, and Baxter City Council and Engineer's Opinion of Probable Construction Cost.

Completion Date: April 2015

Task 5: Advertising/Bidding/Award

Subtask 5.1: Bidding Administration

Objective: Administer the bidding process.

Description: We will administer the bidding process by doing the following:

- Prepare the advertisement for bids and submit to the appropriate publications.
- Distribute contract documents to prospective bidders.
- Answer all bidder's questions and issue addenda, if necessary.
- Attend and facilitate the bid opening. We will tabulate the bids, review apparent low bid for compliance with contract documents, and prepare a letter of award recommendation to the City based on the results.
- Prepare the contract agreement and notice of award and forward to the contractor for signatures when directed by the City.
- Update assessment rolls based on the bid accepted by the City.

Deliverables: Advertisement for bids, addenda (if necessary), bid tabulation, letter of award recommendation, contract agreement, and notice of award.

Completion Date: May 19, 2015

Task 6: Construction Staking

Objective: Complete project staking in an accurate and timely manner.

Description: Bolton & Menk survey staff will provide construction staking as outlined in the Request for Proposal. The Resident Project Representative will coordinate all staking requirements with the contractor and surveyor. Staking will be initiated within 24 hours of the request.

Deliverables: Construction stakes and documentation of survey points installed.

Completion Date: June - August 2015

Task 7: Project Management

Objective: Provide project oversight and construction management during the construction process.

Description: We will coordinate execution of the contract documents and verify that insurance and bonds submitted by the contractor meet project requirements. We will coordinate, attend, and facilitate a preconstruction meeting with property owners. We will coordinate, attend, and facilitate the pre-construction meeting as well as a weekly construction meeting between City staff, the contractor, subcontractors, and utility companies.

As part of this work task, we will require a construction schedule from the contractor and will monitor weekly the contractor's progress. We will review shop drawings and prepare monthly pay requests based on the amount of work completed. We will prepare change orders, if necessary. Although not anticipated as a requirement based on the proposed funding mechanism for this improvement, we will monitor wage rate compliance, if required.

We will attend Baxter Public Utility Commission and City Council meetings to provide project updates, present pay applications, and change orders for approval, as necessary.

Deliverables: Preconstruction and weekly construction meeting minutes, shop drawings, pay requests and change orders (if necessary).

Completion Date: June - August 2015

Task 8: Construction Services

Subtask 8.1: Construction Observation

Objective: Observe construction to ensure the project is constructed in accordance with project plans and specifications.

Description: Bolton & Menk will provide an experienced Resident Project Representative (RPR) knowledgeable in municipal utility construction and reporting requirements. With the close proximity of the project to our Baxter office, we will cost effectively and efficiently supply additional RPR staff as necessary and on short notice.

As part of our RPR services, we will communicate with contractors and other interested stakeholders as a liaison of the City to assure issues are addressed and questions are answered in a friendly, professional manner. This will be done utilizing some or all of the following methods: weekly construction meetings, progress updates submitted to City staff, or direct updates to staff, Commissions, or Council.

Based on the project schedule, our construction experience with similar projects, and input from City staff, we have assumed the overall RPR need to be periodic and part time over the duration of the construction timeframe between June 1, 2015 and August 28, 2015.

Deliverables: Copies of daily records of construction activities, meeting notes, change orders, directives, materials lists, supplier lists, project updates/notices, punch lists, verbal weekly updates of issues and action items, and construction photos.

Completion Date: June - August 2015

Task 9: Post Construction Services

Subtask 9.1: Record Drawing

Objective: Prepare Record Drawing.

Description: Bolton & Menk survey staff will field locate at a survey accurate level the "as constructed" location of items outlined in the Request for Proposal and prepare a Record Drawing detailing location of public and private utilities.

Deliverables: Record Drawing in .dwg format as well as coordinate locations in format comparable with the City of Baxter GIS system. Scanned copies of project related construction documents will be provided to the City.

Completion Date: September 2015

Subtask 9.2: Property Monumentation

Objective: Establish project area property corners.

Description: Bolton & Menk survey staff will reset property corners disturbed during construction and establish property corners not evident during the preliminary survey.

Deliverables: Certificate of Survey of all property corners replaced and established.

Completion Date: September 2015

UTILITIES COMMISSION February 11, 2015

The regular meeting of the Baxter Utilities Commission was called to order at 5:03 p.m. by Chairman Rock Yliniemi.

MEMBERS PRESENT: Commissioners Shawn Crochet, Chairman Rock Yliniemi, and Council Liaison Mark Cross.

MEMBERS ABSENT: Commissioner Dave Franzen.

STAFF PRESENT: Public Works Director/City Engineer Trevor Walter and Administrative Assistant Mary Haugen.

OTHERS PRESENT: WSN Consulting Engineer Aric Welch.

APPROVAL OF MINUTES

MOTION by Commissioner Crochet, seconded by Council Liaison Cross to approve the Utilities Commission minutes of January 7, 2015. Motion carried unanimously.

<u>REVIEW OF THE 2015 DRAFT ISLE DRIVE EXTENSION PROJECT PLANS AND SPECIFICATIONS</u>

City Consulting Engineer Welch reviewed the draft 2015 Isle Drive Extension Project Plans with the commission and an extensive discussion was held on the layout of sanitary sewer and water mains.

Bituminous roadway width and trail segments were discussed and the commission was informed the County would not allow a dedicated bike lane when a multi-modal trail was available on Isle Drive (Mapleton Road).

Council Liaison Mark Cross brought up the issue of current and future screening of the power substation. The power substation will be at the main entrance to the City Center property in the future and the City should starting thinking about that issue.

MOTION by Commissioner Crochet, seconded by Council Liaison Cross to hold a special Utilities Commission meeting on Wednesday, February 25th at 5:00 p.m. to review the final plans and specifications for the 2015 Isle Drive Extension Project. Motion carried unanimously.

WSN AGREEMENT FOR PROFESSIONAL ENGINEERING AND SURVEYING SERVICES FOR THE FOREST DRIVE AREA STORMWATER IMPROVEMENTS

Public Works Director/City Engineer Walter gave a brief review of the Forest Drive surface flooding situation that occurred in the spring of 2014. City Council had directed staff to budget and schedule the project for 2015.

In 2014, the Forest Drive area between Excelsior Road and Fox Road experienced localized flooding of surface water requiring City intervention in the form of pumping to protect private

properties from damage. The affected area has no natural storm water outlet, and localized surface water ponding can be expected as a result of heavy or prolonged rainfall events under high ground water conditions.

City Consulting Engineer Welch reviewed the Agreement for Professional Engineering and Surveying Services for the Forest Drive Area Stormwater Improvements.

Preliminary Survey Services

WSN proposes to complete a preliminary topographic survey of the project area suitable for the design of the proposed improvements. Items included with this proposal are:

- Establish vertical and horizontal control points within the project area
- Field survey existing conditions and topography for vertical and horizontal location information
- Coordinate field location of existing utilities
- Record and document location of mapped or marked utilities if available
- Record and document existing property corners and right-of-way that are evident
- Import field survey points into base drawing along with property and right-of-way information
- Prepare base topographic drawing and existing ground surface

Wetland Delineation Services

WSN proposes to delineate wetlands located within the project limits, prepare a wetland delineation report and submit the report to Crow Wing County for review and approval. Items included in the proposed scope of services are as follows:

- Review existing records/maps/surveys and existing data as required by the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual
- Conduct a site reconnaissance and stake wetland boundaries based on existing hydrology, vegetation and soils
- Survey location of delineated wetland boundaries
- Prepare a delineation report suitable for submittal to all applicable regulatory authorities
- Submit report to Crow Wing County for review and approval

Please note, tasks associated with wetland mitigation, if required, are not included in this proposal. Based on preliminary information, WSN does not believe wetland mitigation will be necessary. Additional topographic, wetland and design information will be needed before a final determination can be made.

Design Services

WSN will prepare design drawings and contract documents suitable for the City to solicit quotes. Items included in the proposed scope of services include:

- Preparation of project plans, including the following:
 - o Title sheet
 - o Statement of estimated quantities
 - o Typical construction details and sections

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- o Traffic Control Plan
- o Existing conditions and removal plans
- o Temporary and permanent erosion control details and plans
- o Storm sewer schedule
- o Ditch and storm sewer and plan and profile sheets
- City Staff review submittal
- Final plan preparation
- Preparation of quotation documents and specifications
- Preparation of Engineer's Estimate of Probable Construction Cost
- Final plan review with City staff, Utilities Commission and City Council

Easement Services

Preparation of three to five easements (depending on storm sewer alignment) will be required to complete the proposed project. WSN will prepare easement sketches and descriptions suitable for the preparation of easement documents. Items included in the proposed scope of services are as follows:

- Prepare a sketch and description of the required easement areas and forward tot eh City Attorney for easement documentation preparation
- Contract affected property owners and distribute easement documentations
- Collect signed easement documents. WSN assumes City Staff or the City Attorney will record the easements with the County

Please note, detailed or extended easement negotiations are not included in the scope of services. WSN assumes City staff will handle easement details and payment negotiations.

Quotations Services

WSN assumes City staff will perform the majority of the quotation solicitation duties including distribution of the quotation package, preparation of the bid tabulation, bid review and award recommendation. WSN will assist the City in quoting the project by providing the following services:

- Provide the City with paper and electronic copies of the quotation package
- Replay to contractor questions and inquiries, when necessary
- Prepare and distribute addenda, if necessary

Construction Staking

WSN proposes to provide construction staking and field survey services associated with the proposed construction. Specific tasks included with this proposal are:

- Re-establish vertical and horizontal control in the project area
- Generate staking files for the design elements shown in the plans
- Provide construction staking for ditch and storm sewer construction
- Document staked point locations and elevations
- Provide Contactor with construction staking information

Construction Administration and Observation

UTILITIES COMMISSION - 02/11/15

WSN assumes City Staff will be responsible for most of the construction administration and a significant portion of observation duties associated with this project. WSN proposed to assist the City by providing the following tasks:

- Review Contractor material submittals for compliance with the specifications
- Provide part-time field observation. WSN has assumed City staff will complete approximately half of the required observations.
- SWPPP monitoring
- Preparation of Contractor payment requests
- Review and preparation of change orders and work directives
- Review project status, pay estimate and change orders with Utilities Commission and City Council
- Assist the City with the final walkthrough and project closeout

Post-Construction Services

WSN will complete post-construction services in accordance with City requirements. Specific tasks included with this proposal are:

- Complete record drawing survey or new or altered storm sewer, sanitary sewer and water pipes, structures and appurtenances
- Re-establish removed or disturbed property boundary markers
- Preparation of property boundary certificate of survey
- Preparation of "Record Drawing" documents

WSN proposes to perform the services described above for the Not to Exceed amount of \$13,250.00.

Public Works Director/City Engineer Walter explained some of the ditching design and construction was completed with the Section 6 Stormwater Outlet in 2005. Since the proposed development of "Baxter Woods" did not occur the ditch was never fully constructed.

WSN had previously designed the storm water ditch and therefore is able to use some of the previous survey information and design information which resulted in a lower proposal since it was a reduction in engineering design and surveying fees.

Chairman Yliniemi inquired if any further action had been taken on setting a policy on liability requirements for professional services. Public Works Director/City Engineer Walter informed the commission that he not seen any formal policy or determination from the City Administrator. City Administrator and City Council is aware of the issue and that it is a concern of the Utilities Commission. Public Works Director/City Engineer Walter informed the commission that WSN has crossed out the capping of liability on their proposed contract under Article 22 of their general provisions of professional agreement

The City Council has adopted a request for proposals (RFP) policy for any professional services over \$15,000. Public Works Director Walter informed the commission the proposal does not require an RFP since it is below the \$15,000.00 threshold.

MOTION by Commissioner Crochet, seconded by Council Liaison Cross to recommend City Council approve the WSN Agreement for Professional Engineering and Surveying Services for the Forest Drive Area Stormwater Improvements in the not to exceed amount of \$13,250.00. Motion carried unanimously.

PAVEMENT STRIPING POLICY REVIEW

Public Works Director/City Engineer Walter informed the commission the Striping Policy had been placed on hold while consideration was given to a pavement management plan. Since the direction is to continue with chip sealing and mill and overlay projects discussion needs to continue on the City's striping policy. A policy recommendation needs to occur before 2016.

BAXTER LIGHTING PROGRAM YEAR-END 2014

The Crow Wing Power Baxter Lighting Program Year-End 2014 was submitted to the commission as information only.

BRAINERD PUBLIC UTILITIES WASTEWATER BOD & TSS RESULTS FOR DECEMBER 2014

The BOD & TSS results for December 2014 were submitted to the commission as information only.

2015 ISLE DRIVE EXTENSION PROJECT

Public Works Director/City Engineer Walter informed the commission the City of Baxter received a project memorandum from WSB & Associates regarding the Northern Long-Eared Bats that could be located within the Isle Drive Extension Project Area. At this time, all 87 Minnesota counties are currently considered to contain potential habitat for the bat.

During the winter, the bats typically use large caves or mines with large passages and entrances; constant temperatures; and high humidity with no air currents. During summer, the bats roost singly or in colonies underneath bark, in cavities, or in crevices of both live and dead trees.

Loss or Degradation of Summer Habitat from highway and commercial development, surface mining, and wind facility construction permanently remove habitat and are prevalent in many areas of this bat's range. Timber harvest and forest management can remove or alter (improving or degrading) summer roosting and foraging habitat.

In order to minimize any possible negative impacts to the Northern Long-Eared Bats, WSB Project Manager, Chuck Richart is recommending that all clearing for the Isle Drive Extension be completed by the end of March 2015. To accomplish this by the end of March, Mr. Richart recommends quoting the project immediately and returning to the Council meeting on March 3, 2015 for possible Council approval of a contract.

ADJOURNMENT

MOTION by Commissioner Crochet, seconded by Council Liaison Cross to adjourn the meeting at 6:30 p.m. Motion carried unanimously.

UTILITIES COMMISSION – 02/11/15

Approved by:	Submitted by,
Rock Yliniemi	Mary Haugen
Chairman	Administrative Assistant



January 27, 2015

Mayor and City Council City of Baxter P.O. Box 2626 Baxter, MN 56425

Brainerd/Baxter 7804 Industrial Park Road PO Box 2720 Baxter, MN 56425-2720

> 218.829.5117 218.829.2517

Brainerd@wsn.us.com

WidsethSmlthNolting.com

RE:

Agreement for Professional Engineering and Surveying Services Forest Drive Area Stormwater Improvements Baxter, MN

Dear Mayor and City Council:

In 2014, the Forest Drive area between Excelsior Road and Fox Road experienced localized ponding of surface water requiring City intervention in the form of pumping to protect adjacent private properties from damage. The affected area currently has no natural stormwater outlet, and localized surface water ponding can be expected as a result of heavy or prolonged rainfall events under high ground water conditions.

Widseth Smith Nolting previously prepared sketches and cost estimates for the Council review in July 2014. We understand the Council decided the attached Option 1 (Ditching along Back Lot Line with Storm Sewer Extension) was the best option because it provided a direct stormwater outlet for the affected area on Forest Drive, as well as the undeveloped property located directly north of the proposed ditch.

In response to Staff request, we are pleased to submit a proposal to provide Engineering and Survey services related to stormwater improvements to the Forest Drive project area. In preparing this proposal, we made the following assumptions:

- Improvements will be as shown in Option 1 attached
- Easements will be required for the ditch and storm sewer pipe construction
- The proposed improvements will not require wetland mitigation
- The estimated construction cost is less than \$100,000 and the City will seek quotes rather than competitively bid the project
- The City will perform the majority of the of the construction administration and field observation services

Based on the above assumption, our proposed scope of services is as follows:

Preliminary Survey Services

WSN proposes to complete a preliminary topographic survey of the project area suitable for design of the proposed improvements. Items included with this proposal are:

- Establish vertical and horizontal control points within the project area
- Field survey existing conditions and topography for vertical and horizontal location information
- Coordinate field location of existing utilities (i.e. electric, telephone, gas, cable)
- Record and document location of mapped or marked utilities (i.e. electric, telephone) if available
- Record and document existing property corners and right-of-way that are evident
- Import field survey points into base drawing along with property and right-of-way information

Architecture Engineering

Surveying

Environmental

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Prepare base topographic drawing and existing ground surface

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- Survey location of delineated wetland boundaries
- Prepare a delineation report suitable for submittal to all applicable regulatory authorities
- Submit report to Crow Wing County for review and approval

Please note, tasks associated with wetland mitigation, if required, are not included in this proposal. Based on preliminary information, we do not believe wetland mitigation will be necessary. Additional topographic, wetland and design information will be needed before a final determination can be made.

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 - Typical construction details and sections
 - o Traffic Control Plan
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- Contact affected property owners and distribute easement documents
- Collect signed easement documents. We assume City Staff or the City Attorney will record the easements with the County

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Please note, detailed or extended easement negotiations are not included in our scope of services. We assume City staff will handle easement details and payment negotiations.

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- Document staked point locations and elevations
- Provide Contractor with construction staking information

Construction Administration and Observation

We assume City Staff will be responsible for most of the construction administration and a significant portion of observation duties associated with this project. WSN proposes to assist the City by providing the following tasks:

- Review Contractor material submittals for compliance with the specifical ons
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Post-Construction Services

WSN will complete post-construction services in accordance with City requirements. Specific tasks included with this proposal are:

- Complete record drawing survey of new or altered storm sewer, sanitary sewer and water pipes, structures and appurtenances
- Re-establish removed or disturbed property boundary markers
- Preparation of property boundary certificate of survey
- Preparation of "Record Drawing" document

WSN proposes to perform the services described above on an hourly basis, in accordance with the attached fee schedule, for the Not To Exceed amount of \$13,250. Documents would be completed within 60 days of receiving the signed proposal.

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If you are in agreement with our proposed scope of services, please sign and return one copy of this letter to us as our authorization to proceed.

We realize this is an important project to the City and for that reason, we welcome the opportunity to sit down with you and your staff to go over this proposal and review the approach and work tasks we have listed. If necessary, we will revise the proposal to better conform to the needs of the City for this project.

We thank you for giving us the opportunity to submit this proposal and look forward to workir staff to make this proposed project a reality.	ng with City
Sincerely,	
Widseth Smith Nolting & Associates, Inc.	
Aric Welch, P.E.	
and the state of t	
Proposed by Widseth Smith Nolting	
Ario Wolch Vice President Kevin B. Wernberg, Executive Vice	President
Aric Welch, Vice President Approved as to form and content by the Baxter City Attorney	
мриота из во того или и	
J. Brad Person Date	
Accepted by the City of Baxter: The above proposal and attached General Provisions of F Services Agreement are satisfactory and WSN is authorized to do the work as specified. Pamade monthly in accordance with the terms on the fee schedule.	Professional yment will be
Date	Date

WIDSETH SMITH NOLTING



2015 FEE SCHEDULE

CLASSIFICATION	HOURLY RATE
Engineer/Architect/Surveyor/Scientist/Wetland Specialist/	Geographer
Level I	\$ 89.00
Level II	\$105.00
Level III	\$128.00
Level IV	\$140.00
Level V	\$155.00
<u>Technician</u>	A F7 00
Level I	\$ 57.00
Level II	\$ 70.00
Level III	\$ 86.00
Level IV	\$102.00
Level V	\$107.00
Computer Systems Specialist	\$120.00
Senior Funding Specialist	\$ 95.00
	\$ 95.00
Marketing Specialist	\$ 75.00
Funding Specialist Administrative Assistant	\$ 50.00

OTHER EXPENSES	RATE
Mileage (Federal Standard Rate) subject to change	\$0.56/mile
Meals/Lodging	Cost
Stakes & Expendable Materials	Cost
•	\$40.00/Day
Waste Water Sampler	\$60.00/Day
ISCO Flow Recorder	\$80.00/Day
Photolonization Detection Meter	\$50.00/Day
Explosimeter	\$35.00/Day
Product Recovery Equipment	\$75.00/Hour
Survey-Grade GPS (Global Positioning System)	\$150,00/Day
Mapping GPS (Global Positioning System)	\$35.00/Hour
Soil Drilling Rig	\$35.00/110Ur \$75.00/Day
Groundwater Sampling Equipment	\$75.00/Day Cost Plus 10%
Subcontractors	COSt Plus 10%

Reproduction Costs	RATE
Black & White Coples: 8 1/2 x 11	\$0.10
Black & White Copies: 11 x 17	\$0.50
Black & White Copies: 24 x 36	\$3.00
Color Copies: 8 1/2 x 11	\$2.00
Color Copies: 11 x 17	\$4.00
Color Copies: 24 x 36	\$12.00 *23.00
Color Plots: 42 x 48	\$22.00

All Accounts due and payable within 30 days of billing. A finance charge is computed on a periodic rate of 1% per month which is an annual percentage rate of 12% on any previous balance not paid within 30 days.

These rates are effective for only the year indicated and are subject to yearly adjustments which reflect equitable changes in the various components.

General Provisions of Professional Services Agreement

mése General Provisions are intended to be used in conjunction with a letter-type Agreement or a Request for Services between Widselh Smith Nolling, a Minnesota Corporation, hereinafter referred to as WSN, and a CLIENT, wherein the CLIENT engages WSN to provide certain Architectural, and/or Engineering services on a Project.

As used herein, the term "this Agreement" refers to (1) the WSN Proposal Letter which becomes the Letter Agreement upon its acceptance by the Client, (2) these General Provisions and (3) any attached Exhibits, as if they were part of one and the same document, With respect to the order of precedence, any attached Exhibits shall govern over these General Provisions, and the Letter Agreement shall govern over any attached Exhibits and these General Provisions. These documents supersede all prior communications and constitute the entire Agreement between the parties. Amendments to this Agreement must be in writing and signed by both CLIENT and WSN.

ARTICLE 1. PERIOD OF SERVICE

The term of this Agreement for the performance of services hereunder shall be as set forth in the Letter Agreement. In this regard, any lump sum or estimated maximum payment amounts set forth in the Letter Agreement have been established in anticipation of an orderly and continuous progress of the Project in accordance with the schedule set forth in the Letter Agreement or any Exhibits attached thereto. WSN shall be entitled to an equitable adjustment to its fee should there be an interruption of services, or amendment to the schedule.

ARTICLE 2. SCOPE OF SERVICES

The scope of services covered by this Agreement shall be as set forth in the Letter Agreement or a Request for Services. Such scope of services shall be adequately described in order that both the CLIENT and WSN have an understanding of the expected work to be performed.

If WSN is of the opinion that any work they have been directed to perform is beyond the Scope of this Agreement, or that the level of effort required significantly exceeds that estimated due to changed conditions and thereby constitutes extra work, they shall notify the CLIENT of that fact. Extra work, additional compensation for same, and extension of time for completion shall be covered by a revision to the Letter Agreement or Request for Services and entered into by both

ARTICLE 3. COMPENSATION TO WSN

- A. Compensation to WSN for services described in this Agreement shall be on a Lump Sum basis, Percentage of Construction, and/or Hourly Rate basis as designated in the Letter Agreement and as hereinafter described.
 - A Lump Sum method of payment for WSN's services shall apply to all or parts of a work scope where WSN's tasks can be readily defined and/or where the level of effort required to accomplish such tasks can be estimated with a reasonable degree of accuracy. The CLIENT shall make monthly payments to WSN within 30 days of date of invoice based on an estimated percentage of completion of WSN's services.
 - 2. A Percentage of Construction or an Hourly Rate method of payment of WSN's services shall apply to all or parts of a work scope where WSN's tasks cannot be readily defined and/or where the level of effort required to accomplish such tasks cannot be estimated with any reasonable degree of accuracy. Under an Hourly Rate method of payment, WSN shall be paid for the actual hours worked on the Project by WSN technical personnel times an hourly billing rate established for each employee. Hourly billing rates shall include compensation for all salary costs, payroll burden, general, and administrative overhead and professional fee. In a Percentage of Construction method of payment, final compensation will be based on actual bids if the project is bid and WSN's estimate to the CLIENT if the project is not bid. A rate schedule shall be furnished by WSN to CLIENT upon which to base periodic payments to WSN.
 - 3. In addition to the foregoing, WSN shall be reimbursed for Items and services as set forth in the Letter Agreement or Fee Schedule and the following Direct Expenses when incurred in the performance of the work:
 - (a) Travel and subsistence.
 - (b) Specialized computer services or programs.
 - (c) Outside professional and technical services with cost defined as the amount billed
 - (d) Identifiable reproduction and reprographic costs.
 - (e) Other expenses for items such as permit application fees, license fees, or other additional items and services whether or not specifically identified in the Letter Agreement or Fee Schedule.
 - 4. The CLIENT shall make monthly payments to WSN within 30 days of date of invoice based on computations made in accordance with the above charges for services provided and expenses incurred to date, accompanied by supporting evidence as available.

B. The CLIENT will pay the balance stated on the invoice unless CLIENT notifies WSN in writing of the particular item that is alleged to be incorrect within 15 days from the date of invoice, in which case, only the disputed item will remain undue until resolved by the parties. All accounts unpaid after 30 days from the



Engineering | Architecture | Surveying | Environmental

date of original invoice shall be subject to a service charge of 1 % per month, or the maximum amount authorized by law, whithever is less, WSN shall be entitled to recover all reasonable costs and disbursements, including reasonable attorneys fees, incurred in connection with collecting amount oved by CLIENT, in addition, WSN may, after giving seven days written notice to the CLIENT, suspend services and withhold deliverables under this Agreement until WSN has been paid in full for all amounts then due for services, expenses and charges. CLIENT agrees that WSN shall not be responsible for any claim for delay or other consequential damages arising from suspension of services hereunder. Upon payment in full by Client and WSN's resumption of services, the time for performance of WSN's services shall be equilibily adjusted to account for the period of suspension and other reasonable time necessary to resume performance.

ARTICLE 4. ABANDONMENT, CHANGE OF PLAN AND TERMINATION Either Party has the right to terminals this Agreement upon seven days written notice. In addition, the CLIENT may at any time, reduce the scope of this Agreement. Such reduction in scope shall be set forth in a written notce from the CLIENT to WSN, in the event of unresolved dispute over change in scope or changed conditions, this Agreement may also be terminated upon seven days wittennotice as provided above.

In the event of termination, and upon payment in full for all work performed and expenses incurred to the date of termination, documents that are identified as deliverables under the Letter Agreement whether finished or unfnished shall be made available by WSN to the CLIENT pursuant to Article 5, and there shall be no further payment obligation of the CLIENT to WSN under this Agreement except for payment of an amount for WSN's anticipated profit on the value of the services not performed by WSN and computed in accordance with the provisions of Article 3 and the Letter Agreement.

In the event of a reduction in scope of the Project work, WSN shall be paid for the work performed and expenses incurred on the Project work thus reduced and for any completed and abandoned work, for which paymenthas not been made, computed in accordance with the provisions of Article 3 and the Letter Agreement.

ARTICLE 5. DISPOSITION OF PLANS, REPORT'S AND OTHER DATA

All reports, plans, specifications, field data and notes and other documents, including all Au reports, prains, specimeations, near one and noise and other documents of documents on electronic media, prepared by WSN or its consultants are instruments of Service and shall remain the property of WSN or its consultants, respectively. WSN and its subconsultants retained common law, satutory and other reserved rights, including, without limitation, copyright. WSN and its subconsultants maintain the right to determine if production will be made, and allowable format for production, of any electronic media or data to CLIENT or any third party. Upon payment in full of monies due pursuant to the to CLIENT or any time-party. Open payment in the influence due pursuant to the Agreement, WSN shall make hardscopics available to the CLIENT, of all documents that are identified as deliverables under the Letter Agreement. If the documents have not been finished (including, but not limited b, completion of final quality control), then WSN shall have no liability for any claims expenses or damages that may arise out of items that could have been corrected during completion/quality control. Any instruments of Service provided are not intended or represented to be suitable for reuse by the CLIENT or others on extensions of the Project or any other project. Any modification or reuse without written verification or adaptation by WSN for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to VISN, CLIENT shall indemnify, defend and hold harmless WSN from any and all suits or claims of third parties arising out of use of unfinished documents, or modification or reuse of inished documents, which is not specifically verified, adapted, or authorized in writing by WSN. This indemnity shall survive the termination of this Agreement.

Should WSN chaose to deliver to CUENT documents in electronic form, CLIENT acknowledges that differences may exist between any electronic files delivered and the printed hard-copy. Copies of documents that may be relied upon by CLIENT are limited to the printed hard-copies that are skined and/or sealed by WSN, Files in electronic form are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic documents will be a tuser's sole risk. CLIENT acknowledges that the useful life of some forms of electronic madia may be limited because of deterioration of the media or obsolescence of the computer had ware and/or software systems. Therefore, WSN makes no representation that such media vili be fully usable beyond 30 days from date of delivery to CLIENT.

ARTICLE 6. CLIENT'S ACCEPTANCE BY PURCHASE ORDER OR OTHER MEANS In lieu of or in addition to signing the acceptance blank on the Letter Agreement, the CLIENT may accept this Agreement by permitting WSN to commence work on the project or by issuing a purchase order signed by a duly authorized representative. Such purchase order shall incorporate by reference theterms and conditions of this Agreement. In the event of a conflict between the terms and conditions of this Agreement and those contained in the CLIENT's purchase order, the learns and conditions of this Agreement shall govern. Notwithstanding any purchase order provisions to the contrary, no warrantees, express or implied, are made by WSN.

· ARTICLE 7. CLIENT'S RESPONSIBILITIES

A. To permit WSN to perform the services required hereunder, the CLIENT shall supply, in proper time and sequence, the following at no expense to WSN:



Provide all program, budget, or other necessary information regarding its requirements as necessary for orderly progress of the work.

- Designate in writing, a person to act as CLIENT's representative with respect to the services to be rendered under this Agreement. Such person shall have authority to transmit instructions, receive instructions, receive information, interpret and define CLIENT's policies with respect to WSN's services,
- 3. Furnish, as required for performance of WSN's services (except to the extent provided otherwise in the Letter Agreement or any Exhibits attached hereto), data prepared by or services of others, including without limitation, core borings, probes and subsurface explorations, hydrographic and geohydrologic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary easement, right-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restriction; and other special data not covered in the Letter Agreement or any Exhibits attached hereto.
- Provide access to, and make all provisions for WSN to enter upon publicly or privately owned property as required to perform the work.
- Act as Ilaison with other agencies or involved parties to carry out necessary
 coordination and negotiations; furnish approvals and permits from all governmental
 authorities having jurisdiction over the Project and such approvals and consents from
 others as may be necessary for completion of the Project.
- 6. Examine all reports, sketches, drawings, specifications and other documents prepared and presented by WSN, obtain advice of an attorney, insurance counselor or others as CLIENT deems necessary for such examination and render in writing, decisions pertaining thereto within a reasonable time so as not to delay the services of WSN.
- Give prompt written notice to WSN whenever CLIENT observes or otherwise becomes aware of any development that affects the scope of timing of WSN's services or any defect in the work of Construction Contractor(s), Consultants or WSN.
- 8. Initiate action, where appropriate, to identify and investigate the nature and extent of asbestos and/or pollution in the Project and to abate and/or remove the same as may be required by federal, state or local statute, ordinance, code, rule, or regulation now existing or hereinefter enacted or amended. For purposes of this Agreement, "pollution" and "pollutant" shall mean any solld, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, alkalis, chemicals and hazardous or toxic waste. Hazardous or toxic waste means any substance, waste pollutant or contaminant now or hereafter included within such terms under any federal, state or local statute, ordinance, code, rule or regulation now existing or hereinafter enacted or amended. Waste further includes materials to be recycled, reconditioned or reclaimed.

If WSN encounters, or reasonably suspects that it has encountered, asbestos or pollution in the Project, WSN shall cease activity on the Project and promptly notify the CLIENT, who shall proceed as set forth above. Unless otherwise specifically provided in the Letter Agreement, the services to be provided by WSN do not include identification of asbestos or pollution, and WSN has no duty to identify or attempt to identify the same within the area of the Project.

With respect to the foregoing, CLIENT acknowledges and agrees that WSN is not a user, handler, generator, operator, treater, storer, transporter or disposer of asbestos or pollution which may be encountered by WSN on the Project. It is further understood and agreed that services WSN will undertake for CLIENT may be uninsurable obligations involving the presence or potential presence of asbestos or pollution. Therefore, CLIENT agrees, except (1) such liability as may arise out of WSN's sole negligence in the performance of services under this Agreement or (2) to the extent of insurance coverage available for the claim, to hold harmless, indemnify and defend WSN and WSN's officers, subconfractor(s), employees and agents from and against any and all claims, lawsuits, damages, liability and costs, including, but not limited to, costs of defense, arising out of or in any way connected with the presence, discharge, release, or escape of asbestos or pollution. This indemnification is intended to apply only to existing conditions and not to conditions caused or created by WSN. This indemnification shall survive the termination of this Agreement.

Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as CLIENT may require or WSN may reasonably request with regard to legal Issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as CLIENT may require to ascertain how or for what purpose any Contractor has used the moneys aid under the construction contract, and such inspection services as CLIENT may quire to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

- Provide "record" drawings and specifications for all existing physical features, structures, equipment, utilities, or facilities which are pertinent to the Project, to the extent applicable.
- Provide other services, materials, or data as may be set forth in the Letter Agreement or any Exhibits attached hereto.
- B. WSN may use any CLIENT provided information in performing its services. WSN shall be entitled to rely on the accuracy and completeness of information furnished by the CLIENT. If WSN finds that any information furnished by the CLIENT is in error or is inadequate for its purpose, WSN shall endeavor to notify the CLIENT. However, WSN shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by CLIENT.

ARTICLE 8, OPINIONS OF COST

Opinions of probable project cost, construction cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs provided for in the Letter Agreement or any Exhibits attached hereto are to be made on the basis of WSN's experience and qualifications and represent WSN's judgment as an experienced design professional. It is recognized, however, that WSN does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractors' methods of determining their prices, and that any evaluation of any facility to be construded, or acquired, or work to be performed on the basis of WSN's cost opinions must, of necessity, be speculative until completion of construction or acquisition. Accordingly, WSN does not guarantee that proposals, bids or actual costs will not substantially vary from opinions, evaluations or studies submitted by WSN to CLIENT hereunder.

ARTICLE 9. CONSTRUCTION PHASE SERVICES

CLIENT acknowledges that it is customary for the architect or engineer who is responsible for the preparation and fumishing of Drawings and Specifications and other construction-related documents to be employed to provide professional services during the Bidding and Construction Phases of the Project, (1)to interpret and clarify the documentation so furnished and to modify the same as circumstances revealed during bidding and construction may dictate, (2) In connection with acceptance of substitute or equal items of materials and equipment proposed by bidders and Contrador(s), (3) in connection with approval of shop drawings and sample submittals, and (4) as a result of and in response to WSN's detecting in advance of performance of affected work inconsistencies or irregularities in such documentation, CLIENT agrees that if WSN is not employed to provide such professional services during the Bidding (if the workls pulout for bids) and the Construction Phases of the Project, WSN will not be responsible for, and CLIENT shall indemnify and hold WSN, its officers, consultant(s), subcontractor(s), employees and agents harmless from, all claims, damages, losses and expenses including athrneys' fees arising out of, or resulting from, any interpretation, clarification, substitution acceptance, shop drawing or sample approval or modification of such documentation issued or carried out by CLIENT or others. Nothing contained in this paragraph shall be construed to release WSN, its officers, consultant(s), subcontractor(s), employees and agent from liability for failure to perform in accordance with professional standards any duty or responsibility which WSN has undertaken or assumed under this Agreement.

ARTICLE 10. REVIEW OF SHOP DRAWINGS AND SUBMITTALS

WSN may review and approve or lake other appropriate action on the contractor's submittals or shop drawings for the limited purpose of checking for general conformance with information given and design concept expressed in the Contract Documents. Review and/or approval of submittals is not conducted for the purpose of determining accuracy and completeness of other details or for substantiating instructions for installation or performance of equipment or systems, all of which remain the exclusive responsibility of the contractor. WSN's review and/or approval shall not constitute approval of safety precautions, or any construction means, methods, techniques, sequences or procedures. WSN's approval of a specific item shall not indicate approval of an assembly of which the item is a component. WSN's review and/or approval shall not relieve contractor for any deviations from the requirements of the contract documents nor from the responsibility for errors or omissions on items such as sizes, dimensions, quantities, colors, or locations. Contractor shall remain solely responsible for compliance with any manufacturer requirements and recommendations.

ARTICLE 11. REVIEW OF PAY APPLICATIONS

If included in the scope of sewices, any review or certification of any pay applications, or certificates of completion shall be based upon WSN's observation of the Work and on the data comprising the confractor's application for payment, and shall indicate that to the best of WSN's knowledge, information and beliaf, the quantity and quality of the Work is in general conformance with the Contract Doxumets. The issuance of a certificate for payment or substantial completion is not a representation that WSN has made exhaustive or continuous inspections, reviewed construction means and methods, verified any back-up data provided by the contractor, or ascertained how orior what purpose the contractor has used money previously paid by CLIENT.

ARTICLE 12. REQUESTS FOR INFORMATION (RFI)

If included in the scope of services, WSN will provide, with reasonable promptness, written responses to requests from any contractor for clarification, interpretation or information on the rements of the Contract Documents. If Contractor's RFI's are, in WSN's professional for information readily apparent from reasonable observation of field conditions or ./of the Contract Documents, or are reasonably inferable therefrom, WSN shall be entitled to compensation for Additional Services for WSN's time in responding to such requests. CLIENT may wish to make the Contractor responsible to the CLIENT for all such charges for additional services as described in this article.

ARTICLE 13, CONSTRUCTION OBSERVATION

If included in the scope of services, WSN will make site visits as specified in the scope of services in order to observe the progress of the Work completed. Such site visits and observations are not intended to be an exhaustive check or detailed inspection, but rather are to allow WSN to become generally familiar with the Work. WSN shall keep CLIENT informed about the progress of the Work and shall advise the CLIENT about observed deficiencies in the Work. WSN shall not supervise, direct or have control over any Contractor's work, nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor. WSN shall not be responsible for any acts or omissions of any Contractor and shall not be responsible for any Contractor's failure to perform the Work in accordance with the Contract Documents or any applicable laws, codes, regulations, or industry standards.

If construction observation services are not included in the scope of services, CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the CLIENT waives any claims against WSN that are connected with the performance of such services.

ARTICLE 14. BETTERMENT

lf, due to WSN's negligence, a required item or component of the Project is omitted from the construction documents, WSN shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event, will WSN be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

ARTICLE 15. CERTIFICATIONS, GUARANTEES AND WARRANTIES

all not be required to sign any documents, no matter by who requested, that would WSN having to certify, guarantee or warrant the existence of conditions whose existence WSN cannot ascertain. CLIENT agrees not to make resolution of any dispute with WSN or payment of any amount due to WSN in any way conlingent upon WSN signing such certification.

ARTICLE 16. CONTINGENCY FUND

CLIENT and WSN agree that certain increased costs and changes may be required because of possible omissions, ambiguitles or inconsistencies in the plans and specifications prepared by WSN, and therefore, that the final construction cost of the Project may exceed the bids, contract amount or estimated construction cost. CLIENT agrees to set aside a reserve in the amount of 5% of the Project construct costs as a contingency to be used, as required, to pay for any such increased costs and changes. CLIENT further agrees to make no claim by way of direct or third-party action against WSN with respect to any increased costs within the contingency because of such changes or because of any claims made by any Contractor relating to such

ARTICLE 17. INSURANCE

WSN shall procure and maintain insurance for protection from claims against it under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims against it for damages because of injury to or destruction of property including loss of use resulting therefrom.

Also, WSN shall procure and maintain professional liability insurance for protection from claims arising out of performance of professional services caused by any negligent act, error, or omission for which WSN is legally liable.

Certificates of Insurance will be provided to the CLIENT upon request.

ARTICLE 18. ASSIGNMENT

Neither Party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may without the prior written consent of the other party. Subcontracting to subconsultants, contemplated by WSN as a generally accepted business practice, shall not be consucred an assignment for purposes of this Agreement.

ARTICLE 19. NO THIRD-PARTY BENEFICIARIES

Nothing contained in this Agreement shall create a contractual relationship or a cause of action by a third-party against either WSN or CLIENT. WSN's services pursuant to this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against WSN because of this Agreement.

ARTICLE 20. CORPORATE PROTECTION

It is intended by the parties to this Agreement that WSN's services in connection with the Project shall not subject WSN's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary, CLIENT agrees that as the CLIENT's sole and exclusive remedy, any claim, demand or sulf shall be directed and/or asserted only against WSN, a Minnesola corporation, and not against any of WSN's individual employees, officers or directors.

ARTICLE 21. CONTROLLING LAW

This Agreement is to be governed by the laws of the State of Minnesota.

ARTICLE 22. ASSIGNMENT OF RISK

ALYN, ARTICLE 22. ASSIGNMENT OF RISK
In recognition of the relative risks and benefits of the project to both the CLIENT and WSN, the risks have been allogated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of WSN, employees of WSN and sub-consultants, to the CLIENT and to all construction contractors, subcontragors, agents and assigns on the project for any and all claims, losses, costs, damages of any nation-whatsoever or claims expenses from any cause or causes, so that total aggregate lability of WSN, employees of WSN and sub-consultants, to all those native data and causes include but are not limited to neolinence. rendered on this project. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract or warranty.

ARTICLE 23. NON-DISCRIMINATION

WSN will comply with the provisions of applicable federal, state and local statutes, ordinances and regulations partaining to human rights and non-discrimination.

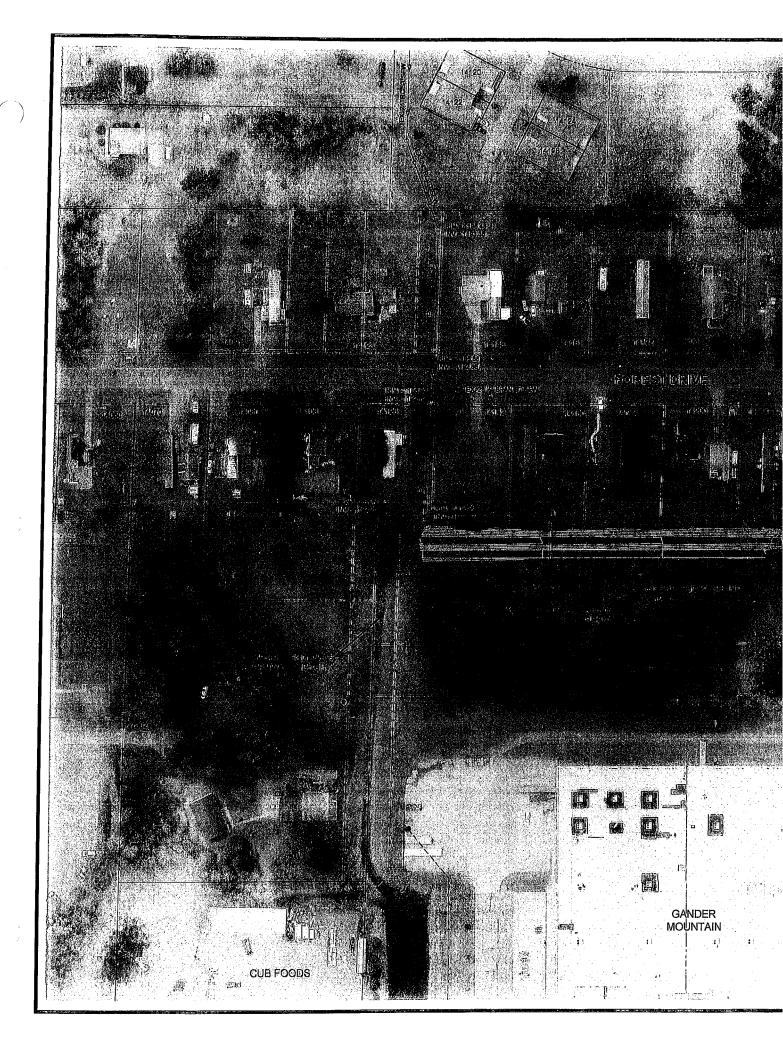
ARTICLE 24. SEVERABILITY

Any provision or portion thereof in this Agreement which is held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding between CLIENT and WSN. All limits of liability and indemnities contained In the Agreement shall survive the completion or termination of the Agreement.

ARTICLE 25. PRE-LIEN NOTICE

Pursuant to the Agreement WSN will be performing services in connection with improvements of real property and may contract with subconsultants or subcontractors as appropriate to furnish labor, skill and/or materials in the performance of the work. Accordingly, CLIENT is entitled under Minnesota law to the following Notice:

- (a) Any person or company supplying labor or materials for this improvement to your property may file a lien against your properly if that person or company is not paid for its contributions.
- (b) Under Minnesota law, you have the right to pay persons who supplied labor or materials for this improvement directly and deduct this amount from our contract price, or withhold the amounts due from us until 120 days after completion of the improvement unless we give you a lien waiver signed by persons who supplied any labor or materials for the improvement and who gave you timely notice.



REQUEST FOR COUNCIL ACTION

02.17.2015

Department Origination:

Agenda Section:

Consent

Public Works

Agenda Item:

Clearing of all Right-of-Way and Easement for the 2015 Isle Drive Extension

Project

Approval Required: Simple Majority Vote of the Council

BACKGROUND

Recently, the City of Baxter received a project memorandum from WSB & Associates regarding the potential for Northern Long-Eared Bats inhabiting the area of the Isle Drive Extension Project Area (attached). At this time, all 87 Minnesota counties are currently considered to contain potential habitat for the bat.

During the winter, the bats typically inhabit large caves or mines with large passages and entrances, constant temperatures, high humidity and no air currents. During the summer, the bats roost singly or in colonies underneath bark and in cavities and crevices of both live and dead trees. For this reason, the U.S. Fish and Wildlife Service is recommending the removal of trees during the months of October through March, when the bats are not roosting in the trees.

In order to minimize any negative impact to the Northern Long-Eared Bats, WSB Project Manager Chuck Richart is recommending the clearing of trees for the Isle Drive Extension be completed by the end of March. The estimated cost of the clearing of r.o.w. and easements is significantly less than \$100,000, therefore quotes can be solicited from multiple contractors. It is proposed that quotes be solicited and a contract be ready for approval at the March 3, 2015 council meeting in order to meet this schedule. (A map showing the areas for tree removal is attached.)

FINANCIAL IMPLICATIONS

The costs associated with the clearing contract will be accounted for in the South Isle Drive Extension Capital Project Fund and were anticipated as part of the required clearing and grubbing for the project.

STAFF RECOMMENDATION

Staff concurs with the recommendations of the U.S. Fish and Wildlife Service and WSB to remove the trees in March which can be accomplished by authorizing staff to solicit quotes for the clearing of trees in the r.o.w. and easements during March, 2015 for the 2015 Isle Drive Extension Project.

COUNCIL ACTION REQUESTED

A motion to approve the clearing of trees in the right-of-ways and easements for the 2015 Isle Drive Extension Project in March, 2015 and authorize staff to solicit quotes from contractors for the purpose of consideration of awarding the contract on March 3, 2015.

Attachment: No. 1 - WSB Memorandum - Dated February 10, 2015

Infrastructure = Engineering = Planning = Construction

4140 Thielman Lane Suite 204 St Cloud, MN 56301

Tel: 320-252-4900 Fax: 320-252-3100

Memorandum

To:

Trevor Walter, PE, Public Works Director / City Engineer

City of Baxter

From:

Chuck Rickart, PE, PTOE, Project Manager

Alison Harwood, Environmental Planning & Natural Resources Scientist

WSB & Associates, Inc.

Copy To: Mike Shomion, PE, Project Engineer

WSB & Associates, Inc.

Aric Welch, PE, Civil Engineer

Widseth Smith Nolting

Date:

February 10, 2015

Re:

Isle Drive Extension

Northern Long-Eared Bat Avoidance Recommendation

City of Baxter

WSB Project No. 2037-09

The northern long-eared bat is currently proposed to be listed as Endangered under the Federal Endangered Species Act. This proposed listing primarily comes in response to the growing threat that the disease white-nose syndrome has placed on the species. At this time, all 87 Minnesota counties are currently considered to contain potential habitat for the bat.

As a result of the proposed listing, the US Fish and Wildlife Service recommends that adverse impacts to the species or their habitat be avoided. In order to avoid impact to the bat, it is recommended that forested habitat be removed between the months of October and March (when bats are not roosting in the trees).

If removal of forested habitat between October and March is not feasible, consultation with the US Fish and Wildlife Service regarding potential adverse impacts to the species will be required. If adverse impacts cannot be avoided there are tools available under the Endangered Species Act, including incidental take permits, which enable flexibility in finding solutions.

In order to minimize the impact to the Northern Long-Eared Bat, WSB is recommending that the clearing for the Isle Drive extension project be completed by the end of March 2015. The area will then be grubbed with the improvement project contract. A map showing the areas that will be included is attached. It is estimated that 22.5 acres of clearing would be required. Based on these areas the estimated cost for completing this work would be under \$100,000 and can be completed by securing quotes from contractors.

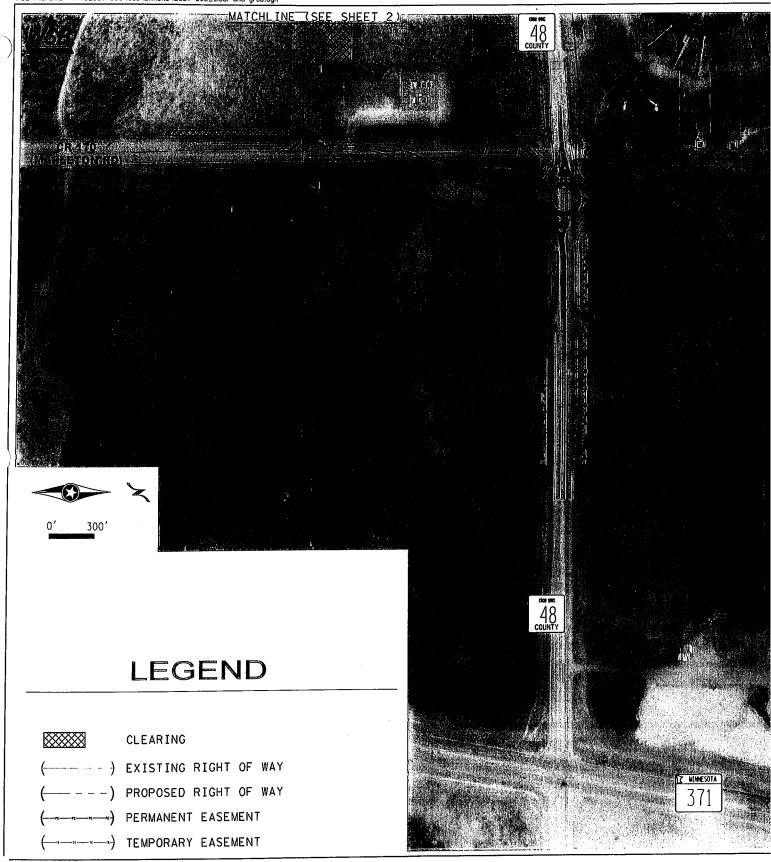
Isle Drive – Long Eared Bat Recommendation City of Baxter February 10, 2015 Page 2 of 2

If the recommendation to secure a contractor to complete the project area clearing is approved by the City Council at the February 17th, 2015 meeting, quotes can be received and a contract could be ready for consideration by the City Council at the March 3rd meeting.

Letters will be sent to the impacted properties indicating the areas that will be cleared with the proposed early contract.

A secondary benefit to clearing the project area early is that it will provide area's that the impacted private utilities can potentially relocate their facilities prior to the Isle Drive construction beginning. This will help with the project construction schedule and coordination.

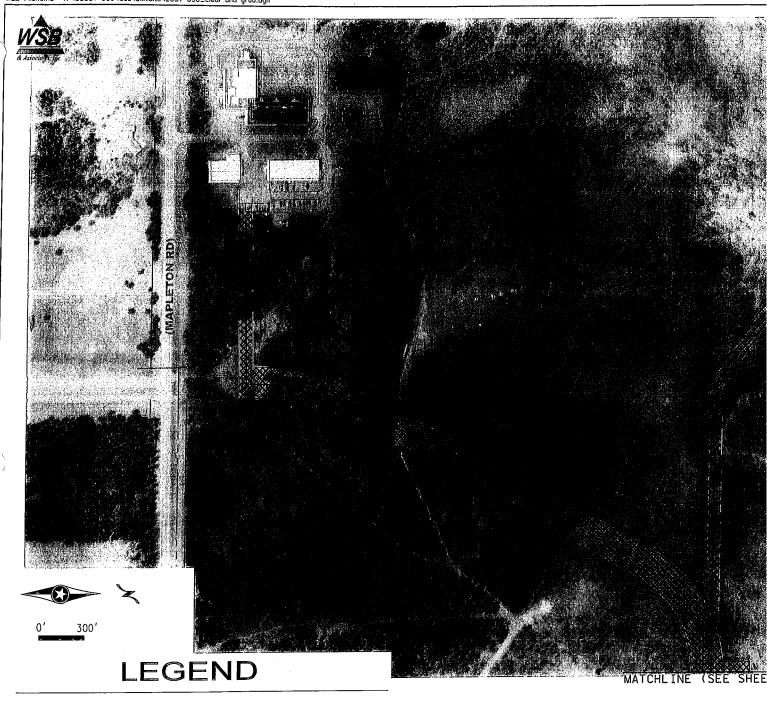
If you have any questions regarding the northern long-eared bat or this recommendation, please contact either Chuck Rickart at 612-360-1283, <u>crickart@wsbeng.com</u> or Alison Harwood at 763-231-4847, <u>aharwood@wsbeng.com</u>.





BAXTER CSAH 48 at CR 170 (Mapleton Road)/ Isle Drive

City of Baxter, Minnesota



	CLEARING			
()	EXISTING	RIGHT	OF	WAY
()	PROPOSED	RIGHT	OF	WAY
(nnn)	PERMANENT	EASE	ÆN:	Γ
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BAXTER CSAH 48 at CR 170 (Mapleton Road)/ Isle Drive

City of Baxter, Minnesota

ARCHITECTURAL REVIEW COMMISSION MINUTES February 5, 2015

The Architectural Review Commission (ARC) meeting was called to order at 7:30 a.m. by Chair Donnay.

<u>COMMISSIONERS PRESENT:</u> Chair Kevin Donnay, Commissioners Gary Handlos and Bob Ryan

COMMISSIONERS ABSENT: Council Liaison Mark Cross

STAFF PRESENT: CD Director Doty

OTHERS PRESENT: Paul Reier

APPROVAL OF MINUTES

MOTION made by Commissioner Handlos, seconded by Commissioner Ryan to approve the November 14, 2014 meeting minutes. Motion carried unanimously.

REQUEST FOR AN AMENDMENT TO THE INDUSTRIAL PARK ARCHITECTURAL TIER MAP FOR SIMONSON LUMBER LOCATED EAST OF 3855 INDEPENDENCE ROAD.

Chair Donnay asked CD Director Doty to explain the proposed changes. CD Director Doty gave history of the property and the previous approvals. The request includes two items, first to amend this property from Tier 1 to Tier II, which would allow the property to have non-architectural metal and exposed fasteners on the sides and back of the building. The second would allow a different metal and articulation for the front (north side) of the building from the variance request that had been approved for roof pitch. The articulation was provided through an eyebrow over the doorway, which has been removed and replaced with a vertical column. The Commission reviewed the previous elevations/drawings and the new requested changes in the proposed articulation. CD rector Doty stated that staff was not sure if the new elevations met the regulations. CD Director Doty then we levations the tiers. He stated that staff is in favor of the tier change for this project, however is not in favor of the articulation change.

Chair Donnay asked the applicant if he had anything to add. Mr. Paul Reier of Keupers Construction showed a sketch to the Commission. The sketch showed a 6" by 18" vertical column for the proposed North wall. Chair Donnay asked if the color would be different, Mr. Reier indicated that it would be a different color. Chair Donnay asked about the other buildings having an aggregate finish. Mr. Reier replied that they searched for those panels and could not find them. Chair Donnay stated that he googled the product and found that CEP has that type of panel. Mr. Reier believed that the panel was sprayed on the panels on site. He further stated that looking at the building it looks sprayed on at a later date. CD Director Doty stated that the proposed architectural metal will look different than the other walls on site. The spray on aggregate has light and dark colors, whereas the proposed metal is one color.

Commission Handlos asked if the road would ever get extended to the east. CD Director Doty stated that there has not been any discussion of extending the road at this time.

Chair Donnay asked about the canopy/dormers over the doors not being over the man doors, are they not being proposed this time. Mr. Reier stated that he could not answer that as Simonson Lumber brought the original plan to the Commission. CD Director Doty stated that the dormers were a part of the variance to allow articulation on those sides. Commissioner Ryan remembered the dormers being part of the articulation. He also stated that the door on the North side was removed because the applicant does not think it is needed. CD ctor Doty informed the Commission that prior to the variance, a plat and an interim use permit (IUP) was approved, which states that when the office addition is built on the North side of the subject building, that it needs to comply with all architectural standards. The north view will change within the next seven years as indicated in the IUP. Commissioner Ryan thought there were different standards for building that will abut

residential lots. Mr. Reier noted that there are two substantial retention ponds between the proposed building and the residential lots. CD Director Doty stated that multiple changes in the regulations may have removed the sidential verbiage.

The Commission discussed the location of the east/west building and if it was going to be removed with the proposed building going up. Mr. Reier indicated that the owner has no intentions of removing that building at this time. He further stated that when the office addition is constructed the building might need to be modified or relocated at that time, do to proximity of the future office addition.

Chair Donnay asked CD Director Doty about the resolution and if this Commission was to approve it as they had not in the past. CD Director Doty stated that staff had struggled with this as well, since normally an amendment like this is done by ordinance and not by resolution. He added that that he would like the Commission to make a motion on the resolution, proposed metal, and the proposed articulation.

Commissioner Ryan questioned making the proposed property Tier II being and that the Long Range Planning Commission just approved the land use map showing the property to the north, owned by Potlatch as the Business Gateway District. He questioned this as it relates to the long term goals of the city.

The Commission moved back to the metal panels and articulation. Chair Donnay stated he was not OK with the panels, especially how it shadows. Commissioner Ryan stated that the owner was here originally and proposed the original project and seemed confident that he could get the materials, now the project as changed and he struggled with changes being requested. The Commission held conversation regarding the differences in the tiers and how it would affect this applicant now and in the future office addition.

TION by Commissioner Handlos, seconded by Commissioner Ryan recommending City Council approve the resolution to change the tier map, proposed materials and articulation for the proposed Simonson Lumber building to be located at 3855 Independence Road.

Commissioner Ryan stated that staff is not recommending approval of this applicant deviating from the materials and articulation, he suggested findings should be added as to why the Commission is approving this for the applicant. Chair Donnay agreed. Commissioner Handlos stated that if the panel is not available, trying to match it would be difficult. He also said that the material presented seems to be a good product. Chair Donnay said availability is a weak finding. Chair Donnay said they can get it, but it's not the same. Commissioner Handlos stated that if they pick an alternate material meeting the regulations, that there is nothing that says it has to match. Commissioner Handlos stated that the possibility of the Potlatch land developing is unlikely. Mr. Reier added that the office addition in seven years will meet the architectural regulations.

Finding of Fact: Availability of existing material, the regulations to not require materials to match, the property to the east is unlikely to develop and the office addition must meet the architectural regulations.

Motion carried unanimously.

Chair Donnay stated that this will go to City Council on February 17, 2015.

OTHER BUSINESS

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NEXT MEETING

The next regular scheduled meeting is February 19, 2015 at 7:30 a.m.

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OTION by Commissioner Ryan, seconded by Commissioner Handlos to adjourn.	Motion carried
manimously. The meeting adjourned at 8:13 a.m.	

Approved by:	Submitted By:
Chair Kevin Donnay	Shanna Newman CD Technical Clerk

REQUEST FOR COUNCIL ACTION

February 17, 2015

Department Origination:

Police

Agenda Section: Consent

Agenda Item: Authorize the Police Department to start the hiring process of an entry level patrol officer to backfill for upcoming resignation

Approval Required: Simple Majority of Vote of the Council

BACKGROUND

A resignation notice has been received by the City of Baxter from Officer Ann Hunnicutt. She will be ending her employment with the city effective April 1st, 2015.

At this time the department is looking to backfill this patrol officer position. This would keep us at our current level of 14 FTE's.

If approved the hiring process would run in tandem with the current process which is underway to fill the vacancy left from the departure of Officer Westerlund last August. If approved, we would look to hire two entry level positions from the current list. Again this would allow us to sustain our 14 FTE's.

FINANCIAL IMPLICATIONS

The 2015 budget is set for the funding of 14 FTE's within the department so this would be in line with the adopted budget.

STAFF RECOMMENDATION

Staff recommends the hiring of an entry level patrol officer to backfill the upcoming vacancy upon the departure of Officer Ann Hunnicutt.

COUNCIL ACTION REQUESTED

Request a motion to authorize the police department to hire a patrol officer at the entry level position.

CITY OF BAXTER, MINNESOTA RESOLUTION 2015-18

RESOLUTION APPROVING AN AMENDMENT TO THE CITY'S ARCHITECTURAL PARK TIER MAP FROM TIER 1 TO TIER 2 FOR SIMONSON LUMBER FOR PROPERTY LOCATED EAST OF 3855 INDEPENDENCE ROAD (CITY FILE NUMBER 15-003)

WHEREAS, Simonson Lumber Company ("the applicant") has requested approval of an amendment to the City's Architectural Park Tier Map from Tier 1 to Tier 2 for property legally described as follows:

Lot 2, Block 1, Potlatch Addition to Baxter, Crow Wing County Minnesota.

WHEREAS, the City of Baxter Zoning Ordinance approves the Architectural Park Tier Map by resolution, and:

WHEREAS, the Architectural Review Commission has reviewed the request at a duly called Public Meeting on February 5, 2015 and recommends approval, and;

Whereas, the City Council considered the Architectural Review Commission recommendation at their February 17, 2015 meeting;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAXTER, MINNESOTA, that it should and hereby does approve the request for an amendment to the City's Architectural Park Tier Map from Tier 1 to Tier 2, subject to the following findings and conditions:

- 1. The amendment to the Architectural Park Tier Map is approved according to the application received on January 20, 2015 and is pursuant to the revised Industrial Park Architectural Tier Map dated February 17, 2015.
- 2. The land east of the subject site includes approximately 330 feet of drainage and utility easement for ponding purposes and is unlikely to develop.
- 3. The future office addition on the subject site that is required as part of a previously approved Interim Use Permit, will be required to meet the city's architectural regulations.
- 4. The existing textured metal on the existing buildings is no longer available and the architectural review ordinance does not require that materials match other buildings.

Whereupon, said Resolution is her 2015.	eby declared adopted on this 17 th day of February
ATTEST:	Todd Holman, Acting Mayor
Kelly Steele, City Clerk	City Seal